

LM INVESTMENT MANAGEMENT LIMITED
ACN 077 208 461

AND

THE MEMBERS AS THEY ARE CONSTITUTED
FROM TIME TO TIME OF THE
THE LM MANAGED PERFORMANCE FUND

CONSTITUTION

HICKEY LAWYERS
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day of December 2001

LM INVESTMENT MANAGEMENT LIMITED ACN 077 208 461 a company duly incorporated in Queensland having its registered office at Level 4, RSL Centre, 44A Cavill Avenue, Surfers Paradise in the State of Queensland (the "Manager")

All those persons who from time to time apply for Units and are accepted as Unitholders of the Scheme ("the Members")

- A. The Manager wishes to establish a unit trust called The LM Managed Performance Fund, (the "Scheme")
- B. By applying to invest in the Scheme through an Offer Document a person will become a Member and be bound by this Constitution.
- C. This Constitution is made with the intent that the benefits and obligations hereof will endure not only to the Manager but also to the extent provided herein to every person who is or becomes a Member.

1. DICTIONARY AND INTERPRETATION

In this Constitution:

"Financial Year" means:

- (a) the period from the Commencement Date to midnight on the next 30 June;
- (b) each subsequent period of 12 months ending at midnight on each 30 June preceding the Vesting Date; and
- (c) the period beginning at midnight on the 30 June immediately preceding the Vesting Date and ending on the Vesting Date;

"Investment Confirmation Statement" means a statement issued by the Manager to a Member pursuant to clause 5.7;

"Issue Price" means the price at which a Unit is issued as detailed in clause 6;

"Law" means the Corporations Act 2001;

"Liabilities" means at any time the aggregate of the following at that time as calculated by the Manager:

- (a) Each liability of the Manager in respect of the Scheme or, where appropriate, a proper provision in accordance with the applicable Accounting Standards in respect of that liability.
- (b) Each other amount payable out of the Scheme Fund or, where appropriate, a proper provision in accordance with the applicable Accounting Standards in respect of that liability.
- (c) Other appropriate provisions in accordance with the applicable Accounting Standards.

"LMA" means LM Administration Pty Ltd ACN 055 691 426

"Manager" means LM Investment Management Limited ACN 077 208 461

"Member" in relation to a Unit, means the person registered as the holder of that Unit (including joint holders).

"Net Fund Value" at any time, means the value of the Scheme Fund less the liabilities at that time;

"Offer Document" means an Offer Document or any Supplementary Offer Document issued by the Manager in relation to the Scheme.

"Power" means any right, power, authority, discretion or remedy conferred on the Manager by this Constitution or any applicable law;

"Redemption Price" means the Redemption Price calculated in accordance with clause 7.4;

"Register" means the register of Members maintained by the Manager under clause 20;

"Scheme" means the trust created by this Deed to be known as The LM Managed Performance Fund;

"Scheme Fund" means assets of the Scheme including but not limited to:

- (a) contributions of money or money's worth to the Scheme; and
- (b) money borrowed or raised by the Manager for the purposes of the Scheme; and

- (c) property acquired, directly or indirectly, with, or with the proceeds of, contributions or money referred to in paragraph (a) or (b); and
- (d) the income and property derived, directly or indirectly from contributions, money or property referred to in paragraph (a), (b) or (c).

"Tax Act" means the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth);

"Unit" means an undivided interest in the Scheme Fund created and issued under this Constitution; and

"Valuation Date" means the date which is the last day of each quarter or any date during each quarter at the Manager's discretion or the date on which the Manager determines there has been a material change in the value of the Scheme Fund.

"Vesting Date" means the date of termination of the Scheme under clause 14.

1.2 Interpretation

- (a) Reference to:
 - (i) one gender includes the others;
 - (ii) the singular includes the plural and the plural includes the singular;
 - (iii) a person includes a body corporate;
 - (iv) an associate of a person means another person who is associated with that person by application of any of the provisions of Division 2 of Part 1.2 of the *Corporations Act 2001*;
 - (v) a party includes the party's executors, administrators, successors and permitted assigns;
 - (vi) a statute, regulation or provision of a statute or regulation ("Statutory Provision") includes:
 - that Statutory Provision as amended or re-enacted from time to time; and
 - a statute, regulation or provision enacted in replacement of that Statutory Provision;
 - (vii) "pay" includes transfer, convey and assign; and
 - (viii) "income" is not limited to "assessable income" as defined in ITAA.
- (b) "Including" and similar expressions are not words of limitation
- (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (d) Headings are for convenience only and do not form part of this Deed or affect its interpretation.
- (e) If a party consists of more than 1 person, this Deed binds each of them separately and any 2 or more of them jointly.

- (f) A reference to dealing with a Unit includes any subscription, redemption, sale, assignment, encumbrance, or other disposition whether by act or omission and whether affecting the legal or equitable interest in the Unit.

1.3 Accounting Standards

In respect of any accounting practice relevant to this Constitution, the following accounting standards apply as if the Scheme were a company:

- (a) the accounting standards required under the Law.
- (b) if no accounting standard applies under clause 1.3(a), the accounting practice determined by the Manager.

2. ESTABLISHMENT OF SCHEME

2.1 Appointment of Responsible Entity

The Manager agrees to act as trustee of the Scheme.

2.2 Declaration of Trust

The Manager declares that it holds the Scheme Fund on trust for the Members.

2.3 Name of Scheme

The name of the Scheme is The LM Managed Performance Fund or any other name that the Manager may determine from time to time.

2.4 Initial Issue

LMA has paid \$1.00 to the Manager to establish the Scheme Fund and the Manager has issued LMA or its nominee one Unit in return for that payment.

3. UNITS AND MEMBERS

3.1 Units

The beneficial interest in the Scheme Fund will be divided into Units. Unless the terms of issue of a Unit or a Class otherwise provide, all Units will carry all rights, and be subject to all the obligations of Members under this Constitution.

3.2 Classes

Different Classes of Units may be issued. If the Manager determines in relation to particular Units, the terms of issue of those Units may eliminate, reduce or enhance any of the rights or obligations which would otherwise be carried by such Units.

3.3 Fractions

Fractions of a Unit may not be issued. When any calculations under this Constitution would result in the issue of a fraction of a Unit, the number of Units to be issued must be rounded down to the nearest whole Unit.

3.4 Equal value

At any time, all the Units in a Class are of equal value.

3.5 Interest

A Unit confers an interest in the Scheme Fund as a whole. No Unit confers any interest in any particular asset of the Scheme Fund.

3.6 Consolidation and re-division

- (a) Subject to clause 3.6(b) the Manager may at any time divide the Scheme Fund into any number of Units other than the number into which the Scheme Fund is for the time being divided.
- (b) A division of a kind referred to in clause 3.6(a) must not change the ratio of Units in a Class registered in the name of any Member to the Units on Issue in the Class.

3.7 Rights attaching to Units

- (a) A Member holds a Unit subject to the rights and obligations attaching to that Unit.
- (b) Each Member agrees not to:
 - (i) interfere with any rights or powers of the Manager under this Constitution;
 - (ii) purport to exercise a right in respect of the Scheme Fund or claim any interest in an asset of the Scheme Fund (for example, by lodging a caveat affecting an asset of the Scheme Fund); or
 - (iii) require an asset of the Scheme Fund to be transferred to the Member.

3.8 Conditions

The Manager may impose such conditions on the issue of Units as it determines including that the Member may not give effect to any mortgage, charge, lien, or other encumbrances other than as expressly permitted by the Manager.

4. BINDING ON ALL PARTIES

- 4.1 This Constitution is binding on the Manager and on all Members of the Scheme as they are constituted from time to time.
- 4.2 By executing the Application Form attached to the Offer Document or any subsequent document the Members as are constituted from time to time agree to be bound by the terms and conditions of this Constitution.

5. ISSUE OF UNITS

5.1 Offer

The Manager may at any time:

- (a) offer Units for subscription or sale; or
- (b) invite persons to make offers to subscribe for or buy Units.

5.2 Form of Application

Each Application for Units:-

- (a) must be made by Application Form attached to an Offer Document or any subsequent document ; and

- (b) must be accompanied by Application Moneys as required by any relevant Offer Document or any subsequent document;

5.3 Acceptance or rejection

The Manager may, without giving any reason:

- (a) accept an Application;
- (b) reject an Application; or
- (c) reject part of the Application.

5.4 Uncleared funds

Units issued against Application Money in the form of a cheque or other payment order (other than in cleared funds) are void if the cheque or payment order is not subsequently cleared.

5.5 Issue of Units

Units are taken to be issued when:

- (a) the Application Money for the Issue Price is received by the Manager; and
- (b) the Manager accepts the Application and the Units are entered in the Register, or at such other time as the Manager determines.

5.6 Number of Units Issued

The number of Units issued at any time in respect of an Application for Units will be calculated as follows:

- (a) by dividing the Application Moneys paid by the applicable Issue Price at that time;
- (b) by rounding down to the nearest unit.

5.7 Investment Confirmation Statement

The evidence of a Members holding in the Scheme will be the latest extract from the Register as provided from time to time to a Member by the Manager in a Investment Confirmation Statement.

- 5.8 Notwithstanding clauses 5.1 - 5.6, the Manager may, in its discretion, allot Units on terms and conditions it thinks fit.

6. ISSUE PRICE

The issue price of a Unit will be calculated as follows:

(Net Fund Value)

(Number of Units Issued)

calculated on the last Valuation Date prior to the date of issue.

7. TERM OF INVESTMENT AND REDEMPTION OF UNITS

7.1 Minimum Term and Conditions

The minimum term of the investment and conditions attaching to the redemption of the Units (withdrawal of funds) are detailed in the Offer Document under which

the Member applied for Units. The minimum term and the minimum notice period for redemption requests may be varied by the Manager from time to time.

7.2 Notice to Redeem

Subject to clause 7.1 a Member may request a redemption of all or part of its Units in the manner prescribed by the Offer Document.

7.3 No Obligation

- (a) Subject to the provisions of clause 7.2 and 7.3(b) the Manager will agree to a Members request for redemption of Units.
- (b) The Manager is not obliged to agree to any request for redemption of Units for such periods as it in its sole discretion determines where:-
 - (i) The Scheme's cash reserves fall below 5% of the value of the Scheme's Issued Units; or
 - (ii) In any calendar month the Manager receives net redemption requests equal to 10% or more of the value of the Scheme's Issued Units; or
 - (iii) Any other event or circumstances arises which the Manager considers in its absolute discretion may be detrimental to the interests of the Members in the Scheme.

7.4 Redemption Price

The Redemption Price of each Unit pursuant to clause 7 shall be calculated as follows:

(Net Fund Value)

(Number of Units Issued)

calculated on the last Valuation Date prior to the date of redemption.

7.5 Redemption by the Manager

The Manager may redeem any Units at any time without notice of such redemption to the relevant Unit Holders.

7.6 Payment

- (a) The Manager must pay to the holder of a redeemed Unit so much of the Distributable Income for the Distribution Period as the Manager considers is reasonably attributed to the Unit for the period from the commencement of the then current Distribution Period to the date of the redemption.
- (b) The Manager must pay to the holder of the redeemed Units the Redemption Price for each redeemed Unit plus the amount referred to in clause 7.6(a) within one month after the Manager's obligation to pay the Redemption Price under clause 7.7 arises.

7.7 Cancellation of Units

Upon the redemption of Units, the Units must be cancelled and the name of the holder must be removed from the Register as a holder of those Units and the Manager's obligation to pay the Redemption Price and the amount referred to in clause 7.6(a) per Unit for each redeemed Unit arises.

8. TRANSFER OF UNITS

8.1 Transferability of Units

- (a) Subject to this Constitution, a Unit may be transferred by instrument in writing, in any form authorised by Law or in any other form that the Manager approves.
- (b) A Transferor of Units remains the holder of the Units transferred until the transfer is registered.

8.2 Registration of Transfers

- (a) The following documents must be lodged for registration at the registered office of the Manager or the location of the Register:
 - (i) the instrument of transfer; and
 - (ii) any other information that the Manager may require to establish the transferor's right to transfer the Units.
- (b) On compliance with clause 8.2(a), the Manager will, subject to the powers of the Manager to refuse registration, register the transferee as a Member.

8.3 Where registration may be refused

Where permitted to do so by Law or this Constitution, the Manager may refuse to register any transfer of Units.

8.4 Where registration must be refused

If the transferee is not a Member the Manager must not consent to the registration until the Manager is satisfied that the transferee has read or had the opportunity to read this Constitution and has agreed to be bound by its provisions.

8.5 Notice of non-registration

If the Manager declines to register any transfer of Units, the Manager must within 5 Business Days after the transfer was lodged with the Manager give to the person who lodged the transfer written notice of, and the reasons for, the decision to decline registration.

8.6 Suspension of transfers

The registration of transfers of Units may be suspended at any time and for any period as the Manager from time to time decides.

9. TRANSMISSION OF UNITS

9.1 Entitlement to Units on death

- (a) If a Member dies:

- (i) the survivor or survivors, where the Member was a joint holder; and
- (ii) the legal personal representatives of the deceased, where the Member was a sole holder,

will be the only persons recognised by the Manager as having any title to the Member's interest in the Units.

- (b) The Manager may require evidence of a Member's death and grant of probate as it thinks fit.
- (c) This clause does not release the estate of the deceased joint Member from any liability in respect of a Unit that had been jointly held by the Member with other persons.

9.2 Registration of persons entitled

- (a) Subject to the Bankruptcy Act 1966 and to the production of any information that is properly required by the Manager, a person becoming entitled to a Unit in consequence of the death or bankruptcy (or other legal disability) of a Member may elect to:
 - (i) be registered personally as a Member; or
 - (ii) have another person registered as the Member.
- (b) All the limitations, restrictions and provisions of this Constitution relating to:
 - (i) the right to transfer Units;
 - (ii) the registration of the transfer of Units;apply to any relevant transfer as if the death or bankruptcy or legal disability of the Unit Member had not occurred and the notice or transfer were a transfer signed by that Member.

9.3 Distributions and other rights

- (a) If a Member dies or suffers a legal disability, the Member's legal personal representative or the trustee of the Member's estate* (as the case may be) is, on the production of all information as is properly required by the Manager, entitled to the same distributions, entitlements and other advantages and to the same rights (whether in relation to meetings of the Scheme or to voting or otherwise) as the Member would have been entitled to if the Member had not died or suffered a legal disability.
- (b) Where two or more persons are jointly entitled to any Unit as a result of the death of a Member, they will, for the purposes of this Constitution, be taken to be joint holders of the Unit.

10. DISTRIBUTABLE INCOME

10.1 Income of the Scheme Fund

The income of the Scheme Fund for each Financial Year will be determined in accordance with applicable Accounting Standards.

10.2 Expenses and provisions of the Scheme Fund

For each Financial Year:

- (a) the Expenses of the Scheme Fund will be determined in accordance with the applicable Accounting Standards; and
- (b) provisions or other transfers to or from reserves may be made in relation to such items as the Manager considers appropriate in accordance with the applicable Accounting Standards including, but not limited to, provisions for income equalisation.

10.3 Distributable Income

The Distributable Income of the Scheme Fund is income of the Scheme Fund less Expenses and provisions of the Scheme Fund.

11. DISTRIBUTIONS

11.1 Distribution Period

The Distribution Period is one calendar month or as otherwise determined by the Manager in its absolute discretion.

11.2 Distributions

- (a) The Manager must distribute the Distributable Income relating to each Distribution Period within 7 days of the end of each Distribution Period.
- (b) For each Distribution Period a Member is entitled to that proportion of the Distributable Income as is equal to the number of Units held by the Member on the last day of the Distribution Period divided by the number of Units on the Register on that date.

11.3 Present entitlement

Unless otherwise agreed by the Manager and subject to the rights, restrictions and obligations attaching to any particular Unit or Class, the Members on the Register will be presently entitled to the Distributable Income of the Scheme Fund on the last day of each Distribution Period.

11.4 Capital distributions

The Manager may distribute capital of the Scheme Fund to the Members. Subject to the rights, obligations and restrictions attaching to any particular Unit or Class, a Member is entitled to that proportion of the capital to be distributed as is equal to the number of Units held by that Member on a date determined by the Manager divided by the number of Units on the Register on that date. A distribution may be in cash or by way of bonus Units.

11.5 Grossed up Tax amounts

Subject to any rights, obligations and restrictions attaching to any particular Unit or Class, the grossed up amount under the Tax Act in relation to Tax credits or franking rebates is taken to be distributed to Unit Members in proportion to the Distributable Income for a Distribution Period as the case may be, which is referable to a dividend or other income to which they are presently entitled.

11.6 Reinvestment of Distributable Income

- (a) The Manager may invite Members to reinvest any or all of their distributable income entitlement by way of application for additional Units in the Scheme.
- (b) The terms of any such offer of reinvestment will be determined by the Manager in its discretion and may be withdrawn or varied by the Manager at any time.
- (c) The Manager may determine that unless the Member specifically directs otherwise they will be deemed to have accepted the reinvestment offer.
- (d) The Units issued as a result of an offer to reinvest will be deemed to have been issued on the first day of the next Distribution Period immediately following the Distribution Period in respect of which the distributable income being reinvested was payable.

12. NATURE OF MANAGER POWERS

12.1 The Manager has all the powers:

- (a) of a natural person to invest and borrow on security of the Scheme Fund;
- (b) in respect of the Scheme and the Scheme Fund that it is possible under the Law to confer on a Manager and on a Trustee;
- (c) as though it were the absolute owner of the Scheme Fund and acting in its personal capacity; or
- (d) necessary for fulfilling its obligations under this Constitution and under the Law.

12.2 Without limiting the generality of clause 12. 1, the Manager may:

- (a) purchase, sell, lease, improve, encumber, sub-divide, hire, licence, exchange, develop, grant leases and licenses and enter into any other agreement or dealing including the surrender or termination of any dealing in relation to any property forming or which is to form part of the Scheme Fund, on any terms the Manager thinks fit;
- (b) repair, renovate, demolish, build or alter any improvement to any property forming part of the Scheme Fund;
- (c) determine any rental to be paid for the use of any property;
- (d) exercise all powers and obligations in relation to any investment forming part of the Scheme Fund, including but not limited to:

- (i) attending and voting at meetings;
 - (ii) appointing proxies for meetings;
 - (iii) taking up a rights issue; and
 - (iv) paying calls under any contract.
- (e) exercise any Power and perform all obligations in relation to any property forming part of the Scheme Fund as if the Manager is the beneficial owner of the property;
- (f) accept a conveyance or transfer of any property as part of the Scheme Fund;
- (g) enter into possession of and manage any property interests of the Scheme Fund.
- 12.3 Without limiting the generality of clause 12.1, the Manager may:
- (a) invest in any "securities" as defined in Section 92(1) of the Law:
 - (i) whether or not a trustee could properly acquire the security; and
 - (ii) on personal credit, with or without security;
 - (b) invest any money on loan to, or on deposit with, any person (including a Member or Related Corporation):
 - (i) with or without interest;
 - (ii) with or without security; and
 - (iii) repayable on any terms the Manager thinks fit;
 - (c) enter into swap transactions, futures contracts, forward rate agreements, foreign exchange agreements;
 - (d) grant or take up an option to acquire property; and
invest in or make a loan to any managed investment fund or scheme, including any managed investment fund or scheme that the Manager is the responsible entity of.
- 12.4 The Manager may invest any money required to be invested on loan to or on deposit with any Member or Related Corporation on any terms the Manager thinks fit.
- 12.5 The Manager may:
- (a) exchange any investment for any other investment authorised under this Constitution;
 - (b) vary the terms of any investment or the security given for that investment; and
 - (c) surrender any investments.
- 12.6 The Manager may:
- (a) use the income or capital of the Scheme Fund to carry on any trade or business, either as a sole trader or in partnership;
 - (b) engage any managers and other employees;

- (c) enter into any arrangement for sharing profits, co-operation, joint venture or reciprocal concessions;
- (d) act in relation to the trade or business as if the Manager were beneficially entitled to it;
- (e) set aside an amount out of the Scheme Fund which, in the Manager's opinion, is sufficient to meet any debt or obligation;
- (f) open and operate an account with any financial institution;
- (g) sign, draw, endorse or execute in a manner determined by the Manager:
 - (i) any cheque or other negotiable or transferable instrument; and
 - (ii) any receipt for money paid to the Manager;
- (h) borrow or raise money with or without giving security over the Scheme Fund or any part of it on any terms including any rate of interest and any fees and expenses as the Manager thinks fit;
- (i) make, draw, accept, endorse, discount, sell, purchase, negotiate and otherwise deal with any promissary note, bill of exchange, commercial bill, bill of lading, warrant, debenture, certificate of deposit or other transferable document or financial instrument for any purpose the Manager thinks fit;
- (j) encumber the Scheme Fund in favour of any person in relation to any obligation of the Manager on behalf of the Scheme;
- (k) to the extent permitted by law:
 - (i) guarantee the payment of money or the performance of any other obligation; and
 - (ii) grant any indemnity in respect of any obligation;to any person whether or not in relation to the obligations of a Member or for the benefit of the Scheme.

12.7 Without limiting the generality of clause 12.1, the Manager may:

- (a) make any claim or demand or take any action on behalf of a Member of the Scheme;
- (b) refer any dispute affecting the assets of the Scheme to arbitration, other than a dispute involving a Member; and
- (c) settle on any terms any matter which arises in relation to the Scheme (if the Manager settles any matter the settlement is binding on all persons interested in the Scheme, including all Members).

12.8 To the extent allowed by law:

- (a) any restriction or prohibition imposed upon the Manager in relation to the investment from time to time of the Scheme Fund or any part thereof is hereby excluded from the obligations imposed.

- (b) without derogating from the generality of the foregoing this exclusion specifically applies to any "Prudent Person Rule" or the like which may be implied by any future enactment of legislation.
- 12.9 To the extent allowed by law:
 - (a) the Manager may borrow or raise money with or without security over the Scheme Fund or any part of it on any terms, including any rate of interest and any fees and expenses as the Manager thinks fit;
 - (b) the Manager may deal with any property to exercise all the powers of a mortgagee pursuant to the mortgage terms and conditions.
- 12.10 The Manager may use Scheme Funds to assist it with its working capital requirements.

13. COMPLAINTS PROCEDURES

- 13.1 Complaints may be made in writing or by telephone to the Compliance Officer of the Manager.
- 13.2 If, after the expiry of thirty days from the date on which the Member first notified the Compliance Officer of its complaint the Member feels that their Complaint has not been satisfactorily resolved the Compliance Officer will refer the complaint to the Board of the Manager for resolution.

14. TERM OF SCHEME

The Scheme begins on the Commencement Date and is to be wound up on the earlier to occur of:

- 14.1 the date which is eighty years from the Commencement Date; and
- 14.2 any earlier date which the Manager, in its absolute discretion may appoint as the Vesting Date.

The Scheme shall only be wound up in accordance with the Law and this Constitution.

15. WINDING UP THE SCHEME

- 15.1 If the manager wishes to wind up the Scheme pursuant to clause 14, the Manager must give to the Members of the Scheme a notice in writing explaining the proposal to wind up the Scheme.
- 15.2 The Manager shall not accept any further applications for Units in the Scheme or make any further loans from the Scheme Fund at a time after the Manager has become obliged to ensure the Scheme is wound up or after the Scheme has started to be wound up.
- 15.3 The Manager shall manage the Scheme until such time as all winding up procedures have been completed.
- 15.4 Subject to the provisions of this clause 15 upon winding up of the Scheme the Manager must:
 - (a) realise the assets of the Scheme Fund;

- (b) pay all liabilities of the Manager in its capacity as Trustee of the Scheme including, but not limited to, liabilities owed to any Member who is a creditor of the Scheme;
- (c) subject to any special rights or restrictions attached to any Unit, distribute the net proceeds of realisation among the Members in the same proportion specified in Clause 11.4;
- (d) The Members must pay the costs and expenses of a distribution of assets under clause 15.4(c) in the same proportion specified in Clause 11.4.
- (e) The Manager may postpone the realisation of the Scheme Fund for as long as it thinks fit and is not liable for any loss or damage attributable to the postponement.
- (f) The Manager may retain for as long as it thinks fit any part of the Scheme Fund which in its opinion may be required to meet any actual or contingent liability of the Scheme.
- (g) The Manager must distribute among the Members in accordance with clause 15.6 anything retained under clause 15.4(f) which is subsequently not required.

15.5 If on completion of the winding up of a registered Scheme, the Manager or such other person who may be winding up the Scheme has in their possession or under their control any unclaimed or undistributed money or other property that was part of the Scheme Property the Manager or person winding up the Scheme must, as soon as practicable, pay the money or transfer the property to the ASIC to be dealt with pursuant to Part 9.7 of the Law.

15.6 Capital Guarantee

(a) Peter Charles Drake has provided a Guarantee to the Manager in its capacity as Trustee for the Members pursuant to which he personally guarantees the payment of each Member's entitlements calculated to the Vesting Date in the event of any shortfall in the assets of the Scheme if the Scheme is wound up. This Guarantee will only apply to Members who are registered as Unit Holders in the Register on the date on which the Scheme is wound up and Peter Charles Drake will only be required to make payment of any claims which are made under the Guarantee on a date 12 months from the Vesting Date of the Scheme.

(b) LM Investment Management Limited ACN 077 208 461 guarantees the payment of each Member's entitlements calculated to the Vesting Date in the event of any shortfall in the assets of the Scheme if the Scheme is wound up. This guarantee will only apply to Members who are registered as Unit Holders in the Register on the date on which the Scheme is wound up. LM Investment Management Limited ACN 077 208 461 will ensure that all amounts which are

guaranteed under this clause are paid to qualifying Members within 12 months from the Vesting Date of the Scheme.

16. VALUE OF THE SCHEME FUND

16.1 Valuation of the Scheme Fund

The Manager may cause the Scheme Fund to be valued at any time in accordance with the Valuation Policy of the Manager.

17. FEES, TAXES, COSTS AND EXPENSES

17.1 Taxes:

The Manager may use the Scheme Fund to pay any Tax or other obligation, liability or expense required by any applicable law in relation to:

- (a) this Constitution;
- (b) any amount incurred or payable by the Manager;
- (c) a gift or settlement effected by this Constitution;
- (d) the exercise by the Manager of any Power; or
- (e) money or investments held by or on behalf of the Manager under this Constitution.

17.2 Payment of Debts:

The Manager may set aside any money from the Scheme Fund which, in the Manager's opinion, is sufficient to meet any present or future obligation of the Scheme Fund.

17.3 Fees:

The Manager is entitled to be paid fees from the Scheme Fund in the amounts as detailed in the Offer Document or in any Offer Document and in relation to the performance of its duties as detailed in this Constitution and the Law.

17.4 The Manager shall be entitled to fees for the following duties:

- (a) In relation to the subscription and redemption of units;
- (b) In relation to the transfer or transmission of Units;
- (c) In relation to arranging any finance facility in connection with the purchase of any asset of the Scheme;
- (d) In relation to due diligence enquiries generally;
- (e) In relation to the sale of real estate or assets of the Scheme Fund;
- (f) In relation to the promotion and management of the Scheme. This fee is payable monthly;
- (g) In relation to the winding-up of the Scheme;
- (h) In relation to the performance of its duties and obligations pursuant to the Law and this Constitution.

17.5 The Manager is entitled to be paid a success fee calculated in relation to a Distribution Period or Financial Year as the difference between the net profit of the Scheme and the net distribution or forecast to be paid to Members by the Manager during that Distribution Period or Financial Year.

17.6 Costs and Expenses

The Manager shall be indemnified out of Scheme Property for liabilities or expenses incurred in relation to the performance of its duties; including:

- (a) Auditor's fees;
- (b) Legal fees and outgoings
- (c) Barrister/QC - Legal Counsel Fees;
- (d) Fees and expenses incurred in respect of any service providers and/or employees of the Scheme;
- (e) All costs, charges and expenses incurred in connection with the acquisition, custody, transfer or disposal of any asset of the Scheme Fund or investments (for example commissions, brokerage, legal fees, bank charges and stamp duty);
- (f) Independent expert's or consultant's fees including but not limited to marketing agents, property specialists, surveyors, quantity surveyors, town planners, engineers;
- (g) Property report/property consultants fees;
- (h) Real estate agent's sales commissions;
- (i) Costs of maintenance of any asset of the Scheme Fund;
- (j) Outstanding accounts relating to any asset of the Scheme Fund such as council rates;
- (k) Locksmith for changing locks of any asset of the Scheme Fund as appropriate;
- (l) Insurance (property and contents);
- (m) Removalists for removal of borrower's property as appropriate;
- (n) Security guards to attend any asset of the Scheme Fund as appropriate;
- (o) Building and/or property inspection report fees - i.e. building, town planning experts and the like;
- (p) all ASIC charges;
- (q) all costs of supplying Members with copies of this Constitution and any other documents required by the Law to be provided to Members;
- (r) all costs and expenses incurred in producing Offer Documents and Supplementary Offer Documents or any other disclosure document required by the Law;
- (s) reasonable costs incurred in protecting or preserving all assets offered as security;
- (t) all liability, loss, cost, expense or damage arising from the proper performance of its duties in connection with the Scheme performed by the Manager or by any agent appointed pursuant to the Law;

- (u) any liability, loss, cost, expense or damage arising from the lawful exercise by the Manager and the Custodian of their rights under the Power of Attorney contained in clause 19;
- (v) Fees and expenses of any agent or delegate appointed by the Manager;
- (w) Bank and government duties and charges on the operation of bank accounts;
- (x) Costs, charges and expenses incurred in connection with borrowing money on behalf of the Scheme under the Constitution;
- (y) Insurances directly or indirectly protecting the Scheme Fund;
- (z) Fees and charges of any regulatory or statutory authority;
- (aa) Taxes in respect of the Scheme but not Taxes of the Manager [save and except any goods and services or similar tax ("GST")] which are payable by the Manager on its own account;
- (bb) Costs of printing and postage of cheques, advices, reports, notices and other documents produced during the management of the Scheme;
- (cc) Expenses incurred in connection with maintaining accounting records and registers of the Scheme and of the Scheme Auditors;
- (dd) Costs and disbursements incurred in the preparation and lodgement of returns under the Law, Tax Act or any other laws for the Scheme;
- (ee) Costs of convening and holding meetings of Members;
- (ff) Costs and disbursements incurred by or on behalf of the Manager in connection with its retirement and the appointment of a substitute;
- (gg) Costs and disbursements incurred by the Manager in the initiation, conduct and settlement of any court proceedings;
- (hh) Costs of any insurance premiums insuring against the costs of legal proceedings (whether successful or not);
- (ii) Costs of advertising the availability of funds for lending;
- (jj) Brokerage and underwriting fees;
- (kk) If and when the Manager becomes responsible to pay any GST in respect of any services provided to the Scheme or any payments in respect of GST to be made by the Members or the Manager in respect of the Scheme or under the terms of this Constitution then the Manager shall be entitled to be indemnified in respect of such GST from the Scheme Fund;

17.7 In the event that the Manager has not performed its duties, the lack of entitlement to payment of fees pursuant to clause 17.3 is only in respect of that part of the payment which relates to the specific lack of proper performance on any given matter. Nothing in this clause shall be interpreted to mean that the Manager is not entitled to be paid fees and expenses for work properly performed.

- 17.8 In the event of any dispute regarding the payment of fees and expenses, the Manager shall be paid such fees and expenses until the dispute is fully determined. Any overpayment of the Manager shall be repaid forthwith upon the identification of the overpayment.
- 17.9 The Manager is entitled to recover fees and expenses from the Scheme provided they have been incurred in accordance with this Constitution.
- 17.10 All fees payable to the Manager include any goods and services tax.

18. INDEMNITY AND LIABILITY

- 18.1 The following clauses apply to the extent permitted by law:

(a) The Manager is not liable for any loss or damage to any person (including any Member) arising out of any matter unless, in respect of that matter, it acted both:

- (i) otherwise than in accordance with this Constitution and its duties; and
- (ii) without a belief held in good faith that it was acting in accordance with this Constitution or its duties.

In any case the liability of the Manager in relation to the Scheme is limited to the Scheme Property, from which the Manager is entitled to be, and is in fact, indemnified.

(b) In particular, the Manager is not liable for any loss or damage to any person arising out of any matter where, in respect of that matter:

- (i) it relied in good faith on the services of, or information or advice from, or purporting to be from, any person appointed by the Manager;
- (ii) it acted as required by Law; or
- (iii) it relied in good faith upon any signature, marking or documents.

(c) In addition to any indemnity under any Law, the Manager has a right of indemnity out of the Scheme Property on a full indemnity basis, in respect of a matter unless, in respect of that matter, the Manager has acted negligently, fraudulently or in breach of trust.

(d) The Manager is not liable to account to any Member for any payments made by the Manager in good faith to any duly authorised authority of the Commonwealth of Australia or any State or Territory of Australia for taxes or other statutory charges.

19. POWERS OF ATTORNEY

19.1 Each Member by execution of the Application Form or the transfer by which he/she/it acquires Units in the Scheme appoints the Manager and any director officer attorney or substitute nominated by the Manager severally for this purpose as its attorney and agent with the right:

- (a) at any time to:
 - (i) sign any document in relation to any subscription and redemption agreement;
 - (ii) sign any document in relation to the transfer or transmission of Units;
 - (iii) sign any variation of this Constitution;
 - (iv) sign any document required by ASIC to be executed by a Member in respect of the Scheme.
 - (b) at the request in writing of the Manager the Member must execute separate Powers of Attorney in a form reasonably required by the Manager appointing the Manager as its attorney for the purpose of this clause.
 - (c) any attorney may exercise its rights notwithstanding that the exercise of the right constitutes a conflict of interest or duty;
- 19.2 Each Member indemnifies and shall keep indemnified any attorney against any liability, loss, cost, expense or damage arising from the lawful exercise of any right by the attorney under the Power of Attorney.

20. THE REGISTER

20.1 Keeping registers

The Manager must establish and keep a register of Members, and if applicable, the other registers required by the Law.

20.2 Information in registers

To the extent applicable, the registers must be kept in accordance with, and contain the information required by the Law. Otherwise, the Manager may decide what information is included in the registers. If the Law applies, the Manager has the powers conferred under the Law in relation to the register.

20.3 Changes

Every Member must promptly notify the Manager of any change of name or address and the Manager must alter the relevant register accordingly.

21. NOTICES

- 21.1. A notice or other communication connected with this Constitution has no legal effect unless it is in writing.
- 21.2. Notices may be:-
- (i) sent by post, postage prepaid to the address for the Member in the Manager's register of interests; or
 - (ii) sent by facsimile to the facsimile number of the Member; or
 - (iii) sent by email to the email address for the Member in the Managers register of interests; or
 - (iv) otherwise delivered at the address of the addressee of the Member as is subsequently notified.

21.3 A Notice must be treated as given and received:

- (i) If sent by the Manager;
 - a by post, on the second business day (at the address to which it is posted) after posting;
 - b by facsimile before 5.00 pm on a business day at the date of receipt, on the day it is sent and otherwise on the next Business Day at the place of delivery;
 - c by email on the date the sending machine indicates that the notice or other document was sent.
- (ii) If sent by the Member by post, facsimile or email, upon receipt of such notice by the Manager.

21.4 A Notice sent or delivered by the Manager in a manner provided by clause 21.2 must be treated as validly given to and received by the member even if:

- (i) the addressee has been liquidated or deregistered or is absent from the place at which the Notice is delivered or to which it is sent; or
- (ii) the notice is returned unclaimed.

21.5 Any Notice by a party may be given and may be signed by the solicitor for the party.

21.6 Any Notice to a Member may be given to the solicitor for the Member by any of the means listed in clause 21.2 to the solicitor's business address, email address or facsimile number as the case may be.

22. LIABILITY OF MEMBERS

22.1 The liability of each Member, whether actual, contingent or prospective, is limited to the unpaid Issue Price of his/her/its Units except if the Manager and the relevant Member agree otherwise in writing that the liability of a Member may be further limited or waived.

22.2 A creditor or other person claiming against the Manager as trustee of the Scheme has no recourse against a Member and no Member is personally liable to indemnify the Manager, any creditor of the Manager or any person claiming against the Manager in respect of any actual, contingent, prospective or other liability of the Manager in relation to the Scheme Fund.

23. APPOINTMENT AND REMOVAL OF TRUSTEE

23.1 Retirement or Resignation of Trustee

- (a) The Manager may retire upon giving 3 months' notice to the Members of its desire to do so.
- (b) The Manager must resign:
 - (i) If it is removed as provided by law;
 - (ii) If (being a corporation) it becomes an externally-administered body corporate as defined in the *Corporations Act 2001*; or

- (iii) If (being a natural person) he or she is found to be of unsound mind or becomes bankrupt.

23.2 Unit Holders May Appoint New Trustee

The holders of not less than 50% of the Units on Issue may by notice in writing appoint a new Manager to fill a vacancy in the office of Manager.

23.3 Transfer of Records

Upon the resignation, retirement, or removal of the Manager, the Manager must hand to the new Trustee all books, records, documents and other matters pertaining to the Scheme and at the expense of the Scheme do all things necessary to transfer legal title and the assets of the Scheme to the new Trustee.

23.4 Deed of Adoption by New Trustee

The new Trustee appointed under clause 23.2 must execute a deed in a form approved by the holders of not less than 50% of the Units on Issue by which the new Trustee undertakes to the Members to carry out the obligations of the Trustee under this Deed.

24. CHANGING THE CONSTITUTION

24.1 This Constitution may be modified or repealed or replaced with a new Constitution by the Manager if the Manager reasonably considers the change will not adversely affect Members' rights or is deemed necessary to conduct the affairs of the Scheme.

24.2 The Manager must send a copy of the Scheme's Constitution to a Member of the Scheme within seven (7) days if the Member:

- (a) asks the Manager in writing for the copy; and
- (b) pays any fee (up to the prescribed amount) required by the Manager

25. ACCOUNTS

25.1 The accounts of the Scheme must be kept and prepared by the Manager in accordance with applicable Accounting Standards.

25.2 The Manager must prepare and make available to Members the financial statements of the Scheme for each financial year.

25.3 The Manager may make the financial statements available to Members by either publishing the statements on the Manager's internet site, emailing the statements to individual Members or by sending the statements to individual Members by facsimile or prepaid post.

25.4 The Manager is not obliged to have the financial statements audited.

26. OTHER ACTIVITIES AND OBLIGATIONS OF THE MANAGER

26.1 Other activities

Subject to the Law, nothing in this Constitution restricts the Manager (or its associates) from:

- (a) dealing with itself (as manager, trustee or responsible entity of another trust or scheme or in another capacity);

- (b) being interested in any contract or transaction with itself (as manager, trustee or responsible entity of another trust or managed investment scheme or in another capacity) or with any Member or retaining for its own benefit profits or benefits derived from any such contract or transaction; or
- (c) acting in the same or similar capacity in relation to any other trust or managed investment scheme.

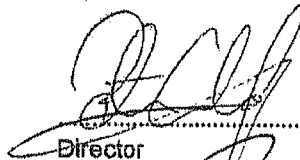
26.2 Other Obligations All obligations of the Manager which might otherwise be implied by Law are expressly excluded to the extent permitted by Law.

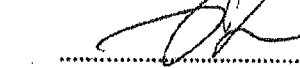
27. GOVERNING LAW

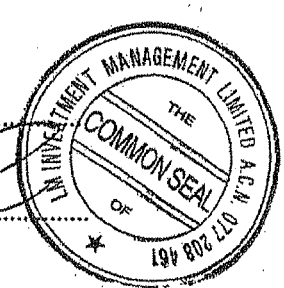
This Deed is governed by the Laws of the State of Queensland.

EXECUTED AS A DEED:

GIVEN under the Common Seal of LM
INVESTMENT MANAGEMENT LIMITED
ACN 077 208 481 by authority of a resolution
of the Board of Directors under the hands of
a Director and the Secretary who certify that
they are the proper officers to affix this seal


.....
Director


.....
Director/Secretary



Deed poll

LM Managed Performance Fund

1704202v2

Version: 1

Level 11 Central Plaza Two 65 Esplanade Brisbane QLD 4000 | GPO Box 1885 Brisbane QLD 4001 Australia
Telephone 07 2225 8888 | Fax 07 2225 8849 | Ausdoc DX 158 Brisbane
Email info@mccullough.com.au | Web www.mccullough.com.au | ABN 42 721 945 851

Deed poll

Dated 25 November 2009

By

Manager LM Investment Management Limited ACN 077 208 461
of Level 4, 9 Beach Road Surfers Paradise, Queensland

In favour of

Members

Background

- A The Manager is the trustee of the Scheme.
- B Clause 24.1 of the Constitution allows the Manager to modify, repeal or replace the Constitution if the Manager reasonably considers the change will not adversely affect Members' rights.
- C The Manager is satisfied the changes contemplated by this supplemental deed do not adversely affect Members' rights. This document is made with the intent that the Manager and each Member will be bound by it.

Agreed terms

1 Amendment

The Constitution is amended by deleting clauses 1, 2.3, 2.4, 3 through to 27 and inserting the provisions in the schedule to this supplemental deed.

2 Trust not Confirmed

- (a) Nothing expressly or impliedly contained in this supplemental deed (including the recitals) is effective to confirm, declare or otherwise acknowledge the trust declared under the original constitution, or to impress any new or additional trusts upon property held on trust as at the date of this supplemental deed.
- (b) Nothing in this supplemental deed should be interpreted as creating any new or further trust and at all times, the Scheme remains a simple trust.

3 Manager and Members bound

The Manager and the Members are bound by the terms of the Constitution as amended by this supplemental deed.

Schedule

DICTIONARY AND INTERPRETATION

1.1 Dictionary of Terms

In this Constitution:

"A Class Unit" means a unit in the Scheme that has its Issue Price and Withdrawal Price calculated in a specific manner;

"B Class Unit" means a unit in the Scheme that has its Issue Price and Withdrawal Price calculated in a specific manner;

"Accounting Standards" means the accounting standards and practices determined under clause 1.3;

"Applicant" anyone who submits an application for Unit/s in the Scheme in accordance with the Information Memorandum;

"Application Form" an application in writing for Unit/s in the Scheme attached to the Information Memorandum;

"Application Money" the amount received from an Applicant when lodging the application in respect of the Unit/s applied for in accordance with the Information Memorandum;

"ASIC" the Australian Securities and Investments Commission;

"Auditor" means the auditor of the Scheme appointed by the Manager;

"Authorised Investors" means:

- (1) An investor residing in a jurisdiction other than Australia; or
- (2) If the investor resides in Australia:
 - (a) Investors who invest a minimum amount of \$500,000.00 in the Scheme; or
 - (b) Investors who invest less than \$500,000.00 in the Scheme and provide a certificate from their qualified accountant under the Law confirming that their net assets are not less than \$2,500,000 or that their gross income is not less than \$250,000 per annum for each of the last two financial years; or
 - (c) Certain professional and sophisticated investors defined under the Law;

"Business Day" any day on which trading banks are generally open for business on the Gold Coast, Queensland;

"Class" means a class of Units, being Units which have the same rights;

"Commencement Date" means the date the Scheme was first

established;

"Constitution" the trust deed for the Scheme including any Schedule, Annexure or Amendments to it;

"Director" means a person appointed as a director of the Manager;

"Distributable Income" means as detailed in Clause 10.3;

"Distribution Period" means the period referred to in Clause 11.1;

"Dollar", "A\$" and "\$" mean the lawful currency of the Commonwealth of Australia;

"Extraordinary Resolution" has the same meaning as in the Law;

"Financial Year" means:

- (a) the period from the Commencement Date to midnight on the next 30 June;
- (b) each subsequent period of 12 months ending at midnight on each 30 June preceding the Vesting Date; and
- (c) the period beginning at midnight on the 30 June immediately preceding the Vesting Date and ending on the Vesting Date;

"Foreign Currency" means a lawful currency other than the currency of the Commonwealth of Australia;

"Information Memorandum" means an Information Memorandum or any Supplementary Information Memorandum issued by the Manager in relation to the Scheme;

"Investment Confirmation Statement" means a statement issued by the Manager to a Member pursuant to clause 5.9;

"Investment Term" means the fixed investment term selected by the Member (initial investment term) when they invest in the Scheme and includes any subsequent fixed term for the investment where the investment is rolled over for that subsequent term but does not include any fixed term under a Savings Plan Option Investment (and the initial fixed investment term and each subsequent fixed term will each be a separate Investment Term, and not a longer combined Investment Term);

"Issue Price" means the price at which a Unit is issued as detailed in clause 6;

"Law" means the Corporations Act 2001;

"Liabilities" means at any time the aggregate of the following at that time as calculated by the Manager in accordance with the Accounting Standards:

- (a) Each liability, excluding Unit Holder Liability, of the Manager in respect of the Scheme or, where appropriate, a proper provision in accordance with the applicable Accounting Standards in respect of that liability;
- (b) Each other amount payable out of the Scheme, excluding Unit Holder Liability or, where appropriate, a proper provision in accordance with the applicable Accounting Standards in respect of that liability; and
- (c) Other appropriate provisions in accordance with the applicable Accounting Standards;

"LMN" means Law Mortgage Management Pty Ltd ACN 055 691 426;

"Manager" means LM Investment Management Limited ABN 68 077 208 461;

"Member" in relation to a Unit, means the person registered as the holder of that Unit (including joint holders);

"Minimum Subscription" means the amount stated in the Information Memorandum as the Minimum Subscription;

"Net Fund Value" means the value of the Scheme Property less the Liabilities on the Valuation Date;

"Power" means any right, power, authority, discretion or remedy conferred on the Manager by this Constitution or any applicable law;

"Register" means the register of Members maintained by the Manager under clause 20;

"Savings Plan Option Investment" means an investment described as the "LM Savings Plan Option" in the Information Memorandum, with terms and conditions as disclosed in the Information Memorandum;

"Scheme" means the trust created by this Deed to be known as The LM Managed Performance Fund;

"Scheme Property" means assets of the Scheme including but not limited to:

- (a) contributions of money or money's worth to the Scheme; and
- (b) money borrowed or raised by the Manager for the purposes of the

Scheme; and

- (c) property acquired, directly or indirectly, with, or with the proceeds of, contributions or money referred to in paragraph (a) or (b); and
- (d) the income and property derived, directly or indirectly from contributions, money or property referred to in paragraph (a), (b) or (c);

"Special Resolution" has the same meaning as in the Law;

"Subscription Account" means a bank account holding the Application Money;

"Tax" includes, but is not limited to:

- (a) stamp duty, excise and penalties relating to these amounts which are imposed on the Manager in respect of any assets in the Scheme;
- (b) taxes and duties and penalties relating to these items imposed as a result of any payment made to or by the Manager under this Constitution;
- (c) taxes imposed or assessed upon:
 - (i) any Application Money;
 - (ii) distributions of income to Members, capital gains, profits or any other amounts in respect of the Scheme; or
 - (iii) the Manager in respect of its capacity as the Manager of the Scheme;
- (d) financial institutions duties, debts tax, withholding tax, land tax or other property taxes charged by any proper authority in any jurisdiction in Australia in respect of any matter in relation to the Scheme, and every kind of tax, duty, rate, levy, deduction and charge including any GST;

"Tax Act" means the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth);

"Unit" means an undivided interest in the Scheme Property created and issued under this Constitution and unless the context is clearly otherwise includes A Class Units and B Class Units;

"Unit Holder Liability" means the liability of the Scheme to the Members for their undivided interest in the Scheme Property;

"Valuation Date" means the date which is the last day of each month or any date during each month at the Manager's discretion or the date on which the Manager determines there has been a material change in the value of the Scheme Property;

"Vesting Date" means the date of termination of the Scheme under clause 14;

"Withdrawal Notice" means a notice in writing, given:

- (a) at least 90 days before the expiry of the relevant Investment Term; or
 - (b) for a Savings Plan Option investment, the period commencing 90 days after the first 12 month period of the Savings Plan Option Investment has expired, and continuing throughout the term of the Savings Plan Option Investment. After the initial 12 month investment period, only 2 such notices may be given within any 12 month period, and any notices in excess of this number will not be valid unless otherwise determined by the RE in its discretion; or
 - (d) any other time period as determined by the Manager;
- by a Member and received by the Manager stating the Member's name, the number of Units the Member wishes to have redeemed, and any other information reasonably required by the Manager;
- "Withdrawal Price" means the price at which a Unit is redeemed as detailed in clause 7.7.

1.2 Interpretation

- (a) Reference to:
 - (i) one gender includes the others;
 - (ii) the singular includes the plural and the plural includes the singular;
 - (iii) a person includes a body corporate;
 - (iv) an associate of a person means another person who is associated with that person by application of any of the provisions of Division 2 of Part 1.2 of the *Corporations Law*;
 - (v) a party includes the party's executors, administrators, successors and permitted assigns;

(vi) a statute, regulation or provision of a statute or regulation ("Statutory Provision") includes:

- * that Statutory Provision as amended or re-enacted from time to time; and
- * a statute, regulation or provision enacted in replacement of that Statutory Provision;

(vii) "pay" includes transfer, convey and assign; and

(viii) "income" is not limited to "assessable income" as defined in ITAA.

(b) "Including" and similar expressions are not words of limitation

(c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

(d) Headings are for convenience only and do not form part of this Deed or affect its interpretation.

(e) If a party consists of more than 1 person, this Deed binds each of them separately and any 2 or more of them jointly.

(f) A reference to dealing with a Unit includes any subscription, withdrawal, sale, assignment, encumbrance, or other disposition whether by act or omission and whether affecting the legal or equitable interest in the Unit.

1.3 Accounting Standards

In respect of any accounting practice relevant to this Constitution, the following accounting standards apply as if the Scheme were a company:

- (1) the accounting standards required under the Law.
- (2) if no accounting standard applies under clause 1.3(a), the accounting practice determined by the Manager.

2. ESTABLISHMENT OF SCHEME

2.1 Appointment of the Manager

[Not Altered not reproduced]

2.2 Declaration of Trust

[Not Altered not reproduced]

2.3 Name of Scheme

The name of the Scheme is The LM Managed Performance Fund or any other name that the Manager may determine from time to time.

2.4 Initial Issue

The Scheme commences at such time when LMM or its nominee pays \$1.00 to the Manager to establish the Scheme. The Manager must issue to LMM or its nominee 1 Unit in return for that payment.

3. UNITS AND MEMBERS

3.1 Units

The beneficial interest in the Scheme will be divided into Units. Unless the terms of issue of a Unit or a Class otherwise provide, all Units will carry all rights, and be subject to all the obligations of Members under this Constitution.

3.2 Classes

Different Classes of Units may be issued. If the Manager determines in relation to particular Units, the terms of issue of those Units may eliminate, reduce or enhance any of the rights or obligations which would otherwise be carried by such Units.

3.3 Fractions

Fractions of a Unit may not be issued. When any calculations under this Constitution would result in the issue of a fraction of a Unit, the number of Units to be issued must be rounded down to the nearest whole Unit.

3.4 Equal value

At any time, all the Units in a Class are of equal value.

3.5 Interest

A Unit confers an interest in the Scheme Property as a whole. No Unit confers any interest in any particular asset of the Scheme Property.

3.6 Consolidation and re-division

(a) Subject to clause 3.6(b) the Manager may at any time divide the Scheme Property into any number of Units other than the number into which the Scheme Property is for the time being divided.

(b) A division of a kind referred to in clause 3.6(a) must not change the ratio of Units in a Class registered in the name of any Member to the Units on Issue in the Class.

3.7 Rights attaching to Units

(a) A Member holds a Unit subject to the rights and obligations attaching to that Unit.

(b) Each Member agrees not to:

- (i) interfere with any rights or powers of the Manager under this Constitution;
- (ii) purport to exercise a right in respect of the Scheme Property or claim any interest in an asset of the Scheme (for example, by lodging a caveat affecting an asset of the Scheme); or
- (iii) require an asset of the Scheme to be transferred to the Member.

3.8 Conditions

The Manager may impose such conditions on the issue of Units as it determines including that the Member may not give effect to any mortgage, charge, lien, or other encumbrances other than as expressly permitted by the Manager.

4. BINDING ON ALL PARTIES

- 4.1 This Constitution is binding on the Manager and on all Members of the Scheme as they are constituted from time to time.
- 4.2 By executing the Application Form attached to the Information Memorandum the Members as are constituted from time to time agree to be bound by the terms and conditions of this Constitution.

5. ISSUE OF UNITS

5.1 Offer

The Manager may at any time:

- (a) offer Units for subscription or sale; or
- (b) invite persons to make offers to subscribe for or buy Units.

5.2 Minimum subscription

- (a) The Manager may set a Minimum Subscription for the pool of funds of any one currency for the Scheme at its discretion.
- (b) The Manager will hold Application Money in a Subscription Account until the Minimum Subscription for the pool of funds is received.

6.3 Insufficient Application Money received

The Manager will return or cause to be returned all Application Money to the persons who paid such Application Money, less any taxes and bank charges payable if:

- (a) insufficient Application Money to meet the Minimum Subscription stipulated in Clause 5.2, or
- (b) the Manager withdraws an Information Memorandum (which the Manager is entitled to do) before sufficient Application Money is received, or
- (c) the Manager does not believe there will be sufficient funds available to achieve the aims of the Scheme contemplated in this Constitution or the Information Memorandum.

5.4 Form of Application

Each Application for Units:-

- (a) must be made by Application Form attached to an Information Memorandum; and
- (b) must be accompanied by Application Moneys as required by any relevant Information Memorandum;
- (c) may only be made by an Authorised Investor.

5.5 Acceptance or rejection

The Manager may, without giving any reason:

- (a) accept an Application;
- (b) reject an Application; or
- (c) reject part of the Application.

5.6 Uncleared funds

Units issued against Application Money in the form of a cheque or other payment order (other than in cleared funds) are void if the cheque or payment order is not subsequently cleared.

5.7 Issue of Units

Units are taken to be issued when:

- (a) the Application Money for the Issue Price is received by the Manager; and
- (b) the Manager accepts the Application and the Units are entered in the Register, or at such other time as the Manager determines.

5.8 Number of Units Issued

The number of Units to be issued to an Applicant will be the amount of the Application Money, rounded down to the nearest two decimal places.

5.9 Additional Applications

Additional Applications for investment in the Scheme by existing

Members, not made on an Application Form may be accepted:

- (a) from a Member;
- (b) as a result of an Application;
- (c) in accordance with an Arrangement for as long as and on condition that it complies with the requirements of the Manager and the law or ASIC's policy including any relief granted to the Manager from time to time; and

5.9 **Holding Application Money**

All Application Money must be held by the Manager on trust for the Applicants in the Subscription Account in accordance with the rules set out in this Constitution.

5.10 **Interest on Application Money**

The Manager is not required to account to any Member for any interest earned on Application Money held in the Subscription Account.

5.11 **The Manager to return Application Money**

Where the Manager has rejected (in full or in part) an Application, the relevant Application Money (without interest) must be returned to the Applicant within 14 days.

5.12 **Incomplete Application Form**

The Manager will, on receipt of any Application Money which is not accompanied by a completed Application Form, as soon as practicable return the Application Money to the relevant Applicant or-

- (a) attempt to obtain the Application Form from the Applicant, and
- (b) bank the Application Money.

5.13 **No Application Form received**

If the Manager has not received the Application Form by the time the offer is closed under the Information Memorandum, then the Manager must use its best endeavours to return the Application Money to the Applicant as soon as practicable, less any taxes and bank charges payable.

5.14 **Investment Confirmation Statement**

The evidence of a Members' holding in the Scheme will be the latest extract from the Register as provided from time to time to a Member by the Manager in a Investment Confirmation Statement.

- 5.16 Notwithstanding clauses 5.1 - 5.15, the Manager may, in its discretion, allot Units on terms and conditions it thinks fit.

6. ISSUE PRICE

The issue price of a Unit (being an A Class Unit or a B Class Unit (including each B Unit subClass) shall be calculated as at the close of business on the Business Day prior to issue as follows:

$$(A-B) / C = D$$

$$\frac{(D \times E) + F}{E} = G$$

Where:

- A = Net Fund Value excluding distributions accrued but not paid to A Class Unit holders since the Valuation Date
- B = Distributions credited but not paid to all B Class Unit holders since the Valuation Date
- C = Total number of all Units on issue
- D = A Class Unit Issue Price
- E = total number of B Class Units on issue in that subClass of B Class Unit holders
- F = Distributions credited but not paid to B Class Unit holders in that subclass since the Valuation Date
- G = B Class Unit Issue Price for that subClass

The purpose of the above calculations is to reflect differential Unit Issue Prices. An A class Unit Issue Price is not intended to reflect accrued but unpaid distributions. A B class Unit Issue Price is intended to reflect accrued but unpaid distributions and adjusted for the unpaid distributions for that subclass of B class Unit holders.

7. TERM OF INVESTMENT AND WITHDRAWAL OF UNITS

7.1 Minimum Term and Conditions

The minimum term of the investment and conditions attaching to the withdrawal of the Units (withdrawal of funds) are detailed in the Information Memorandum under which the Member applied for Units.

7.2 Fixed investment period

When making their Application, all Applicants must invest for one of the Investment Terms specified in the Information Memorandum.

7.3 Authorised withdrawal

The Manager may authorise withdrawals by any Member in accordance with the following procedure and as disclosed in the Information Memorandum:

- (a) the Information Memorandum may offer fixed investment Terms to Applicants;
- (b) the fixed Investment Terms must be disclosed in the Information Memorandum;
- (c) during their fixed Investment Term a Member is not entitled to withdraw (except in the absolute discretion of the Manager);
- (d) within the period nominated by the Manager, as disclosed in the Information Memorandum, before the expiry of their fixed Investment Term, the Member must advise the Manager in writing ("Withdrawal Notice") whether the Member is withdrawing from the Scheme.
- (e) If the Member fails to complete and return the Withdrawal Notice within the time period nominated by the Manager, as disclosed in the Information Memorandum, before the end of that Member's fixed Investment Term (and any subsequent Investment Term) and:
 - (i) if the investment is in A Class Units and is made in Australian dollars, the Member will be deemed to have elected to renew their investment in the Scheme for the period of the initial Investment Term in Australian dollars;
 - (ii) if the investment is in A Class Units and is made in a Foreign Currency the Member will be deemed to have elected to renew their investment in the Scheme for a 3 month Investment Term and applied to hedge their reinvestment in the originally nominated currency.
 - (iii) if the investment is in B Class Units and is made in Australian dollars the Member will be deemed to have elected to renew their investment in the Scheme for a 12 month Investment Term (unless the initial Investment Term is longer than 12 months in which case the

Member will be deemed to have elected to renew their investment in the Scheme for the initial investment term) in Australian dollars;

- (iv) if the investment is in B Class Units and is made in a Foreign Currency the Member will be deemed to have elected to renew their investment in the Scheme for a 12 month Investment Term (unless the initial Investment Term is longer than 12 months in which case the Member will be deemed to have elected to renew their investment in the Scheme for the initial investment term) and applied to hedge their reinvestment in the originally nominated currency.

- (f) If the Manager allows a Member to withdraw an investment from the Scheme before the end of an Investment Term, the Manager is also entitled to require the Member to pay:

- (i) for investments in Australian dollars a breaking of investment term fee up to 10% of the investment amount;
- (ii) for investments in foreign currency a breaking of investment term fee up to 10% of the investment amount and in addition the Manager will also be entitled to require the Member to pay an amount equal to any other fees or charges arising from the early withdrawal (including fees and charges that may be payable to the financial institution which has organised the investment in the relevant currency).

The charges referred to in this clause 7.3(f) will be deducted from the investment being withdrawn, and paid at the time of withdrawal. Such charges will become part of the Scheme Property.

7.4 No Obligation

- (a) Subject to the provisions of clause 7.3 and 7.4(b) the Manager will agree to a Member's request for withdrawal of Units.
- (b) The Manager is not obliged to agree to any request for withdrawal of Units for such periods as it in its sole discretion.

determines where:-

- (i) The Scheme's cash reserves fall below 5% of the value of the Scheme's Issued Units; or
- (ii) In any calendar month the Manager receives net withdrawal requests equal to 10% or more of the value of the Scheme's Issued Units; or
- (iii) Any other event or circumstances arises which the Manager considers in its absolute discretion may be detrimental to the interests of the Members in the Scheme.

7.5 Withdrawal by the Manager

The Manager may withdraw any Units at any time by giving notice of such withdrawal to the relevant Unit Holders.

7.6 Payment

- (a) The Manager must pay to the holder of a withdrawn Unit so much of the Distributable Income for the Distribution Period as the Manager considers is reasonably attributed to the Unit for the period from the commencement of the then current Distribution Period to the date of the withdrawal.
- (b) The Manager must pay to the holder of the withdrawn Units the withdrawal price as determined in clause 7.8 per Unit for each withdrawn Unit plus the amount referred to in clause 7.6(a):-
 - (i) for Australian dollar investments within 30 days, or
 - (ii) for Non-Australian dollar investments within 5 Business Days after the Manager's obligation to pay the withdrawal price under clause 7.7 arises subject to clause 7.4.

7.7 Cancellation of Units

Upon the withdrawal of Units, the Units must be cancelled and the name of the holder must be removed from the Register as a holder of those Units and the Manager's obligation to pay the withdrawal price and the amount referred to in clause 7.6(a) per Unit for each redeemed Unit arises.

7.8 Withdrawal Price

The Withdrawal Price of each A Class Unit or each B Class Unit (including each B Unit subClass) pursuant to clause 7 shall be calculated in the same manner as the Issue Price.

8. TRANSFER OF UNITS

8.1 Transferability of Units

- (a) Subject to this Constitution, a Unit may be transferred by instrument in writing, in any form authorised by Law or in any other form that the Manager approves.
- (b) A Transferor of Units remains the holder of the Units transferred until the transfer is registered.

8.2 Registration of Transfers

- (a) The following documents must be lodged for registration at the registered office of the Manager or the location of the Registrar:
 - (i) the instrument of transfer; and
 - (ii) any other information that the Manager may require to establish the transferor's right to transfer the Units.
- (b) On compliance with clause 8.2(a), the Manager will, subject to the powers of the Manager to refuse registration, register the transferee as a Member.

8.3 Where registration may be refused

Where permitted to do so by Law or this Constitution, the Manager may refuse to register any transfer of Units.

8.4 Where registration must be refused

IF

- (a) the Manager has notice that the transferor of Units has entered into any borrowing or other form of financial accommodation to provide all or part of the funds to subscribe for or acquire a Unit and has not received confirmation from the financier that the financier consents to the transfer of those Units; or
- (b) the transferor has given a power of attorney in favour of the Manager in the form set out in an application form accompanying the Information Memorandum and the transferee has not executed and provided to the Manager a similar form of power of attorney (with such adaptations as are necessary) in favour of the Manager, the Manager must refuse to register same and must continue to treat the seller or transferor as the case may be as the registered holder for all purposes and the purported sale, purchase, disposal

or transfer shall be of no effect, or

- (c) if the transferee is not a Member the Manager must not consent to the registration until the Manager is satisfied that the transferee has read or had the opportunity to read this Constitution and has agreed to be bound by its provisions.

8.5 Notice of non-registration

If the Manager declines to register any transfer of Units, the Manager must within 5 Business Days after the transfer was lodged with the Manager give to the person who lodged the transfer written notice of, and the reasons for, the decision to decline registration.

8.6 Suspension of transfers

The registration of transfers of Units may be suspended at any time and for any period as the Manager from time to time decides. However, the aggregate of those periods must not exceed 30 days in any calendar year.

9. TRANSMISSION OF UNITS

9.1 Entitlement to Units on death

- (a) If a Member dies:

- (i) the survivor or survivors, where the Member was a joint holder; and
- (ii) the legal personal representatives of the deceased, where the Member was a sole holder,

will be the only persons recognised by the Manager as having any title to the Member's interest in the Units.

- (b) The Manager may require evidence of a Member's death and grant of probate as it thinks fit.

- (c) This clause does not release the estate of the deceased joint Member from any liability in respect of a Unit that had been jointly held by the Member with other persons.

9.2 Registration of persons entitled

- (a) Subject to the Bankruptcy Act 1966 and to the production of any information that is properly required by the Manager, a person becoming entitled to a Unit in consequence of the death or bankruptcy (or other legal disability) of a Member may elect to:

- (i) be registered personally as a Member; or
- (ii) have another person registered as the Member.

- (b) All the limitations, restrictions and provisions of this Constitution relating to:

- (i) the right to transfer Units;
- (ii) the registration of the transfer of Units;

apply to any relevant transfer as if the death or bankruptcy or legal disability of the Unit Member had not occurred and the notice or transfer were a transfer signed by that Member.

9.3 Distributions and other rights

- (a) If a Member dies or suffers a legal disability, the Member's legal personal representative or the trustee of the Member's estate (as the case may be) is, on the production of all information as is properly required by the Manager, entitled to the same distributions, entitlements and other advantages and to the same rights (whether in relation to meetings of the Scheme or to voting or otherwise) as the Member would have been entitled to if the Member had not died or suffered a legal disability.
- (b) Where two or more persons are jointly entitled to any Unit as a result of the death of a Member, they will, for the purposes of this Constitution, be taken to be joint holders of the Unit.

10. DISTRIBUTABLE INCOME

10.1 Income of the Scheme

The income of the Scheme for each Financial Year will be determined in accordance with applicable Accounting Standards.

10.2 Expenses and provisions of the Scheme

For each Financial Year:

- (a) the Expenses of the Scheme will be determined in accordance with the applicable Accounting Standards; and
- (b) provisions or other transfers to or from reserves may be made in relation to such items as the Manager considers appropriate in accordance with the applicable Accounting Standards including, but not limited to, provisions for income equalisation.

10.3 Distributable Income

The Distributable Income of the Scheme is Income of the Scheme less Expenses and provisions of the Scheme.

11. DISTRIBUTIONS

11.1 Distribution Period

(a) For A Class Unit holders:

- (i) The Distribution Period is one calendar month for Australian dollar investments commencing on the 1st day of each calendar month, or as otherwise determined by the Manager in its absolute discretion.
 - (ii) The Distribution Period is one calendar month for investments made in non-Australian dollars where distributions are made in Australian dollars commencing on the 1st day of the investment term, or as otherwise determined by the RE in its absolute discretion.
 - (iii) The Distribution Period is the Investment Term for investments made in non-Australian dollars where distributions are made in non-Australian dollars, commencing on the 1st day of the investment term, or as otherwise determined by the RE in its absolute discretion.
- (b) For B Class Unit holders the Distribution Period is one calendar month commencing on the 1st day of each calendar month, or as otherwise determined by the Manager in its absolute discretion.

11.2 Distributable Income

The Distributable Income of the Scheme Fund for the Distribution Period will be such amount as the Manager reasonably determines. Distributable Income is paid to Members in their nominated currency (except for non-Australian dollar investments where the investor has chosen to have distributions paid in Australian dollars) after taking into account all direct and indirect costs associated with any currency conversion, and to the extent they have not otherwise been taken into account, any adviser fees or costs associated with individual Members' investments.

11.3 Distributions

- (a) If the payment for Units is made in Australian dollars the Manager must distribute the Distributable Income relating to each Distribution Period within 10 Business Days of the end of each

Distribution Period except:

- (i) on withdrawal of investment where the Distributable Income will be paid in accordance with clause 7.6; or
 - (ii) if the Manager allows and the member elects to be paid Distributable Income other than at the end of the distribution period the Distributable Income will be paid within 10 Business Days after the end of that nominated period, which must be greater than the distribution period and a duration equivalent to multiples of the distribution period.
- (b) If the payment for Units is made in Foreign Currency, which is hedged through a foreign exchange contract by the Scheme, the Distributable Income is paid:
- (i) within 10 Business Days of the end of the Distribution Period; or
 - (ii) where the Investment Term is greater than 12 months, if the Manager allows and the member elects to be paid yearly, the Distributable Income will be paid within 10 Business Days after each 12 monthly anniversary of the investment.
- (c) For each Distribution Period a Member is entitled to that proportion of the Distributable Income as is equal to the number of Units held by the Member on the last day of the Distribution Period divided by the number of Units on the Register on that date.

11.4 Present entitlement

Unless otherwise agreed by the Manager and subject to the rights, restrictions and obligations attaching to any particular Unit or Class, the Members on the Register will be presently entitled to the Distributable Income of the Scheme on the last day of each Distribution Period.

11.5 Capital distributions

The Manager may distribute capital of the Scheme to the Members. Subject to the rights, obligations and restrictions attaching to any particular Unit or Class, a Member is entitled to that proportion of the capital to be distributed as is equal to the number of Units held by that

Member on a date determined by the Manager divided by the number of Units on the Register on that date. A distribution may be in cash or by way of bonus Units.

11.6 **Grossed up Tax amounts**

Subject to any rights, obligations and restrictions attaching to any particular Unit or Class, the grossed up amount under the Tax Act in relation to Tax credits or franking rebates is taken to be distributed to Unit Members in proportion to the Distributable Income for a Distribution Period as the case may be, which is referable to a dividend or other income to which they are presently entitled.

11.7 **Reinvestment of Distributable Income**

- (a) The Manager may invite Members to reinvest any or all of their distributable income entitlement by way of application for additional Units in the Scheme.
- (b) The terms of any such offer of reinvestment will be determined by the Manager in its discretion and may be withdrawn or varied by the Manager at any time.
- (c) The Manager may determine that unless the Member specifically directs otherwise they will be deemed to have accepted the reinvestment offer.
- (d) The Units issued as a result of an offer to reinvest will be deemed to have been issued on the first day of the next Distribution Period immediately following the Distribution Period in respect of which the distributable income being reinvested was payable.

12. **NATURE OF MANAGER POWERS**

12.1 **The Manager has all the powers:**

- (a) of a natural person to invest and borrow on security of the Scheme Property;
- (b) in respect of the Scheme and the Scheme Property that it is possible under the Law to confer on a Manager and on a Trustee;
- (c) as though it were the absolute owner of the Scheme Property and acting in its personal capacity; or
- (d) necessary for fulfilling its obligations under this Constitution and under the Law.

12.2 **Without limiting the generality of clause 12. 1, the Manager may:**

- (a) purchase, sell, lease, improve, encumber, sub-divide, hire, licence, exchange, develop, grant leases and licenses and enter into any other agreement or dealing including the surrender or termination of any dealing in relation to any property forming or which is to form part of the Scheme, on any terms the Manager thinks fit;
- (b) repair, renovate, demolish, build or alter any improvement to any property forming part of the Scheme;
- (c) determine any rental to be paid for the use of any property;
- (d) exercise all powers and obligations in relation to any investment forming part of the Scheme Property, including but not limited to:
 - (i) attending and voting at meetings;
 - (ii) appointing proxies for meetings;
 - (iii) taking up a rights issue; and
 - (iv) paying calls under any contract.
- (e) exercise any Power and perform all obligations in relation to any property forming part of the Scheme as if the Manager is the beneficial owner of the property;
- (f) accept a conveyance or transfer of any property as part of the Scheme;
- (g) enter into possession of and manage any property interests of the Scheme;

12.3 Without limiting the generality of clause 12.1, the Manager may:

- (a) invest in any "securities" as defined in Section 92(1) of the Law:
 - (i) whether or not a trustee could properly acquire the security; and
 - (ii) on personal credit, with or without security;
- (b) invest any money on loan to, or on deposit with, any person (including a Member or Related Corporation):
 - (i) with or without interest;
 - (ii) with or without security; and
 - (iii) repayable on any terms the Manager thinks fit;
- (c) enter into swap transactions, futures contracts, forward rate agreements, foreign exchange agreements;

- (d) grant or take up an option to acquire property; and
 - (e) invest in or make a loan to any managed investment fund or scheme, including any managed investment fund or scheme that the Manager is the responsible entity of.
- 12.4 Clause 12.3 applies whether the Manager's purpose in making the investment:
- (a) is to create a capital accretion or to produce income or other profits;
 - (b) is partly for a purpose referred to in clause 12.4(a);
 - (c) is for any other purpose that the Manager considers benefits the Scheme; or
 - (d) is for any purpose that the Manager considers directly or indirectly benefits any Member.
- 12.5 The Manager may invest any money required to be invested on loan to or on deposit with any Member or Related Corporation on any terms the Manager thinks fit.
- 12.6 The Manager may:
- (a) exchange any investment for any other investment authorised under this Constitution;
 - (b) vary the terms of any investment or the security given for that investment; and
 - (c) surrender any investments.
- 12.7 Without limiting the generality of clause 12.1, the Manager may:
- (a) use the income or capital of the Scheme to carry on any trade or business, either as a sole trader or in partnership;
 - (b) engage any managers and other employees;
 - (c) enter into any arrangement for sharing profits, co-operation, joint venture or reciprocal concessions;
 - (d) act in relation to the trade or business as if the Manager were beneficially entitled to it;
 - (e) set aside an amount out of the Scheme Property which, in the Manager's opinion, is sufficient to meet any debt or obligation;
 - (f) open and operate an account with any financial institution;
 - (g) sign, draw, endorse or execute in a manner determined by the Manager.

- (i) any cheque or other negotiable or transferable instrument; and
 - (ii) any receipt for money paid to the Manager;
 - (h) borrow or raise money with or without giving security over the Scheme Property or any part of it on any terms including any rate of interest and any fees and expenses as the Manager thinks fit;
 - (i) make, draw, accept, endorse, discount, sell, purchase, negotiate and otherwise deal with any promissory note, bill of exchange, commercial bill, bill of lading, warrant, debenture, certificate of deposit or other transferable document or financial instrument for any purpose the Manager thinks fit;
 - (j) encumber the Scheme Property in favour of any person in relation to any obligation of the Manager on behalf of the Scheme;
 - (k) to the extent permitted by law:
 - (i) guarantee the payment of money or the performance of any other obligation; and
 - (ii) grant any indemnity in respect of any obligation; to any person whether or not in relation to the obligations of a Member or for the benefit of the Scheme.
- 12.8 Without limiting the generality of clause 12.1, the Manager may:
- (a) make any claim or demand or take any action on behalf of a Member of the Scheme;
 - (b) refer any dispute affecting the assets of the Scheme to arbitration, other than a dispute involving a Member; and
 - (c) settle on any terms any matter which arises in relation to the Scheme (if the Manager settles any matter the settlement is binding on all persons interested in the Scheme, including all Members).
- 12.9 To the extent allowed by law:
- (a) any restriction or prohibition imposed upon the Manager in relation to the investment from time to time of the Scheme Property or any part thereof is hereby excluded from the obligations imposed.
 - (b) without derogating from the generality of the foregoing this

exclusion specifically applies to any "Prudent Person Rule" or the like which may be implied by any future enactment of legislation.

12.10 To the extent allowed by law:

- (a) the Manager may borrow or raise money with or without security over the Scheme Property or any part of it on any terms, including any rate of interest and any fees and expenses as the Manager thinks fit;
- (b) the Manager may deal with any property to exercise all the powers of a mortgagee pursuant to the mortgage terms and conditions.

12.11 The Manager may use Scheme Property to assist it with its working capital requirements.

13. **COMPLAINTS PROCEDURES**

- 13.1 Complaints may be made in writing or by telephone to the Manager.
- 13.2 The Manager has 30 days to respond to the complaint once it is received. The Manager must attempt to resolve the complaint within a satisfactory time period as determined by the nature of the complaint and the Member's response. If the Member feels that their Complaint has not been satisfactorily resolved it will be referred to a Director or Complaints Manager of the Manager for resolution.

14. **TERM OF SCHEME**

The Scheme begins on the Commencement Date and is to be wound up on the earlier to occur of:

- (a) the date which is eighty years from the Commencement Date; and
- (b) any earlier date which the Manager, in its absolute discretion may appoint as the Vesting Date.

15. **WINDING UP THE SCHEME**

- 15.1 The Scheme shall only be wound up in accordance with the Law and this Constitution.
- 15.2 The Manager must wind up the Scheme in the following circumstances:-
 - (a) if the term of the Scheme as detailed in this Constitution has expired;
 - (b) the Members pass an Extraordinary Resolution directing the Manager to wind up the Scheme;

- (c) the Court makes an order directing the Manager to wind up the Scheme.
 - (d) the Members pass an Extraordinary Resolution to remove the Manager but do not at the same time pass an Extraordinary Resolution choosing a company to be the new Manager that consents to becoming the Scheme's Manager;
- 15.3 (a) If the Manager considers that the purpose of the Scheme:
- (i) has been accomplished; or
 - (ii) cannot be accomplished,
- it may take steps to wind up the Scheme.
- (b) If the Manager wishes to wind up the Scheme pursuant to clause 15.3(a), the Manager must give to the Members of the Scheme a notice in writing;
- (i) explaining the proposal to wind up the Scheme, including explaining how the Scheme's purpose has been accomplished or why that purpose cannot be accomplished; and
 - (ii) informing the Members of their rights to take action under Division 1 of Part 2G.4 of the Law for the calling of a Members' meeting to consider the proposed winding up of the Scheme and to vote on an Extraordinary Resolution Members propose about the winding up of the Scheme; and
 - (iii) informing the Members that the Manager is permitted to wind up the Scheme unless a meeting is called to consider the proposed winding up of the Scheme within 28 days of the Manager giving the notice to the Members;
- (c) if no meeting is called within that 28 days to consider the proposed winding up, the Manager may wind up the Scheme.
- 15.4 The Manager shall not accept any further applications for Units in the Scheme or make any further loans from the Scheme at a time after the Manager has become obliged to ensure the Scheme is wound up or after the Scheme has started to be wound up.
- 15.5 The Manager shall manage the Scheme until such time as all winding up

procedures have been completed.

15.5 Subject to the provisions of this clause 15 upon winding up of the Scheme the Manager must:

- (a) realise the assets of the Scheme;
- (b) pay all liabilities of the Manager in its capacity as Trustee of the Scheme including, but not limited to, liabilities owed to any Member who is a creditor of the Scheme;
- (c) subject to any special rights or restrictions attached to any Unit, distribute the net proceeds of realisation among the Members in the same proportion specified in Clause 11.4;
- (d) The Members must pay the costs and expenses of a distribution of assets under clause 15.5(c) in the same proportion specified in Clause 11.4.
- (e) The Manager may postpone the realisation of the Scheme Property for as long as it thinks fit and is not liable for any loss or damage attributable to the postponement.
- (f) The Manager may retain for as long as it thinks fit any part of the Scheme Property which in its opinion may be required to meet any actual or contingent liability of the Scheme.
- (g) The Manager must distribute among the Members in accordance with clause 15.6 anything retained under clause 15.6(f) which is subsequently not required.

15.7 If on completion of the winding up of a registered Scheme, the Manager or such other person who may be winding up the Scheme has in their possession or under their control any unclaimed or undistributed money or other property that was part of the Scheme Property the Manager or person winding up the Scheme must, as soon as practicable, pay the money or transfer the property to the ASIC to be dealt with pursuant to Part 9.7 of the Law.

15.8 Capital Guarantee

LM Investment Management Limited ACN 077 208 461 guarantees the payment of each Members entitlements in the event of any shortfall in the assets of the Scheme if the Scheme is wound up where the Member became a Member of the Scheme on or before 4 November 2002. This guarantee will only apply to Members who are registered as Unit Holders

in the Register on 4 November 2002 and remain Members on the date on which the Scheme is wound up. LM Investment Management Limited AEN 68 077 208 461 will ensure that all amounts which are guaranteed under this clause are paid to qualifying Members within 12 months of the date on which the Scheme is wound up.

16. **VALUE OF THE SCHEME PROPERTY**

The Manager may cause the Scheme Property to be valued at any time in accordance with the Valuation Policy of the Manager.

17. **FEES, TAXES, COSTS AND EXPENSES**

17.1 **Taxes:**

The Manager may use the Scheme Property to pay any Tax or other obligation, liability or expense required by any applicable law in relation to:

- (a) this Constitution;
- (b) any amount incurred or payable by the Manager;
- (c) a gift or settlement effected by this Constitution;
- (d) the exercise by the Manager of any Power; or
- (e) money or investments held by or on behalf of the Manager under this Constitution.

17.2 **Payment of Debts:**

The Manager may set aside any money from the Scheme Property which, in the Manager's opinion, is sufficient to meet any present or future obligation of the Scheme.

17.3 **Fees:**

The Manager is entitled to be paid a management fee from the Scheme Property up to 10% per annum of the Net Fund Value in relation to the performance of its duties as detailed in this Constitution and the Law. This fee is to be calculated monthly and paid at such times as the Manager determines.

17.4 **The Manager shall be entitled to fees for the following duties:**

- (a) In relation to the subscription and withdrawal of units;
- (b) In relation to the transfer or transmission of Units;
- (c) In relation to arranging any finance facility in connection with the purchase of any asset of the Scheme;
- (d) In relation to due diligence enquiries generally;

- (e) In relation to the sale of real estate or assets of the Scheme Property;
- (f) In relation to the promotion and management of the Scheme. This fee is payable monthly;
- (g) In relation to the winding-up of the Scheme;
- (h) In relation to the performance of its duties and obligations pursuant to the Law and this Constitution.

17.5 The Manager is entitled to be paid a success fee calculated in relation to a reporting period as the difference between the net profit of the Scheme and the net distributor forecast to be paid to Members by the Manager during that reporting period.

17.6 Costs and Expenses

The Manager shall be indemnified out of Scheme Property for liabilities or expenses incurred in relation to the performance of its duties; including:

- (a) Auditor's fees;
- (b) Legal fees and outgoings
- (c) Barrister/QC - Legal Counsel Fees;
- (d) Fees and expenses incurred in respect of any service providers and/or employees of the Scheme;
- (e) All costs, charges and expenses incurred in connection with the acquisition, custody, transfer or disposal of any asset of the Scheme or investments (for example commissions, brokerage, legal fees, bank charges and stamp duty);
- (f) Independent expert's or consultant's fees including but not limited to marketing agents, property specialists, surveyors, quantity surveyors, town planners, engineers;
- (g) Property report/property consultants fees;
- (h) Real estate agent's sales commissions;
- (i) Costs of maintenance of any asset of the Scheme;
- (j) Outstanding accounts relating to any asset of the Scheme such as council rates;
- (k) Locksmith for changing locks of any asset of the Scheme as appropriate;
- (l) Insurance (property and contents);

- (m) Removalists for removal of borrower's property as appropriate;
- (n) Security guards to attend any asset of the Scheme as appropriate;
- (o) Building and/or property inspection report fees - i.e. building, town planning experts and the like;
- (p) all ASIC charges;
- (q) all costs of supplying Members with copies of this Constitution and any other documents required by the Law to be provided to Members;
- (r) all costs and expenses incurred in producing Information Memorandums and Supplementary Information Memorandums or any other disclosure document required by the Law;
- (s) reasonable costs incurred in protecting or preserving all assets offered as security;
- (t) all liability, loss, cost, expense or damage arising from the proper performance of its duties in connection with the Scheme performed by the Manager or by any agent appointed pursuant to the Law;
- (u) any liability, loss, cost, expense or damage arising from the lawful exercise by the Manager and the Custodian of their rights under the Power of Attorney contained in clause 19;
- (v) Fees and expenses of any agent or delegate appointed by the Manager;
- (w) Bank and government duties and charges on the operation of bank accounts;
- (x) Costs, charges and expenses incurred in connection with borrowing money on behalf of the Scheme under the Constitution;
- (y) Insurances directly or indirectly protecting the Scheme Property;
- (z) Fees and charges of any regulatory or statutory authority;
- (aa) Taxes in respect of the Scheme but not Taxes of the Manager [save and except any goods and services or similar tax ("GST")] which are payable by the Manager on its own account;
- (bb) Costs of printing and postage of cheques, advices, reports, notices and other documents produced during the management of the Scheme;

- (cc) Expenses incurred in connection with maintaining accounting records and registers of the Scheme and of the Scheme Auditors;
- (dd) Costs and disbursements incurred in the preparation and lodgment of returns under the Law, Tax Act or any other laws for the Scheme;
- (ee) Costs of convening and holding meetings of Members;
- (ff) Costs and disbursements incurred by or on behalf of the Manager in connection with its retirement and the appointment of a substitute;
- (gg) Costs and disbursements incurred by the Manager in the initiation, conduct and settlement of any court proceedings;
- (hh) Costs of any insurance premiums insuring against the costs of legal proceedings (whether successful or not);
- (ii) Costs of advertising the availability of funds for lending;
- (jj) Brokerage and underwriting fees;
- (kk) If and when the Manager becomes responsible to pay any GST in respect of any services provided to the Scheme or any payments in respect of GST to be made by the Members or the Manager in respect of the Scheme or under the terms of this Constitution then the Manager shall be entitled to be indemnified in respect of such GST from the Scheme Property;

17.7 In the event that the Manager has not performed its duties, the lack of entitlement to payment of fees pursuant to clause 17.3 is only in respect of that part of the payment which relates to the specific lack of proper performance on any given matter. Nothing in this clause shall be interpreted to mean that the Manager is not entitled to be paid fees and expenses for work properly performed.

17.8 In the event of any dispute regarding the payment of fees and expenses, the Manager shall be paid such fees and expenses until the dispute is fully determined. Any overpayment of the Manager shall be repaid forthwith upon the identification of the overpayment.

17.9 The Manager is entitled to recover fees and expenses from the Scheme provided they have been incurred in accordance with this Constitution.

17.10 All fees payable to the Manager are net of any goods and services tax.

18. INDEMNITY AND LIABILITY

18.1 The following clauses apply to the extent permitted by law:

- (a) The Manager is not liable for any loss or damage to any person (including any Member) arising out of any matter unless, in respect of that matter, it acted both:
 - (i) otherwise than in accordance with this Constitution and its duties; and
 - (ii) without a belief held in good faith that it was acting in accordance with this Constitution or its duties.

In any case the liability of the Manager in relation to the Scheme is limited to the Scheme Property, from which the Manager is entitled to be, and is in fact, indemnified.

- (b) In particular, the Manager is not liable for any loss or damage to any person arising out of any matter where, in respect of that matter:

- (i) it relied in good faith on the services of, or information or advice from, or purporting to be from, any person appointed by the Manager;
- (ii) it acted as required by Law; or
- (iii) it relied in good faith upon any signature, marking or documents.

- (c) In addition to any indemnity under any Law, the Manager has a right of indemnity out of the Scheme Property on a full indemnity basis, in respect of a matter unless, in respect of that matter, the Manager has acted negligently, fraudulently or in breach of trust.

- (d) The Manager is not liable to account to any Member for any payments made by the Manager in good faith to any duly authorised authority of the Commonwealth of Australia or any State or Territory of Australia for taxes or other statutory charges.

19. POWERS OF ATTORNEY

19.1 Each Member by execution of the Application Form or the transfer by which he/she/it acquires Units in the Scheme appoints the Manager and any director officer attorney or substitute nominated by the Manager severally for this purpose as its attorney and agent with the right:

- (a) at any time to:
 - (i) sign any document in relation to any subscription and

- withdrawal agreement;
 - (ii) sign any document in relation to the transfer or transmission of Units;
 - (iii) sign any variation of this Constitution;
 - (iv) sign any document required by ASIC to be executed by a Member in respect of the Scheme.
 - (b) at the request in writing of the Manager the Member must execute separate Powers of Attorney in a form reasonably required by the Manager appointing the Manager as its attorney for the purpose of this clause.
 - (c) any attorney may exercise its rights notwithstanding that the exercise of the right constitutes a conflict of interest or duty;
- 19.2 Each Member indemnifies and shall keep indemnified any attorney against any liability, loss, cost, expense or damage arising from the lawful exercise of any right by the attorney under the Power of Attorney.

20. THE REGISTER

20.1 Keeping registers

The Manager must establish and keep a register of Members, and if applicable, the other registers required by the Law.

20.2 Information in registers

To the extent applicable, the registers must be kept in accordance with, and contain the information required by the Law. Otherwise, the Manager may decide what information is included in the registers. If the Law applies, the Manager has the powers conferred under the Law in relation to the register.

20.3 Changes

Every Member must promptly notify the Manager of any change of name or address and the Manager must alter the relevant register accordingly.

21. NOTICES

- 21.1 A notice or other communication connected with this Constitution has no legal effect unless it is in writing.
- 21.2 In addition to any other method of service provided by law, the Notice must be:
- (a) sent by post, postage prepaid, to the address for the Member in the Manager's register of interests;

- (b) sent by facsimile to the facsimile number of the Member; or
 - (c) otherwise delivered, including via email, at the address of the addressee of the Member as is subsequently notified.
- 21.3 A Notice must be treated as given and received:
 - (a) if sent by post, on the 2nd Business Day (at the address to which it is posted) after posting;
 - (b) if sent by facsimile or electronically before 5.00 p.m. on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of delivery.
- 21.4 Despite clause 21.3(ii) a facsimile is not treated as given or received unless at the conclusion of the transmission the sender's facsimile machine issues a transmission report which indicates that the relevant number of pages comprised in the Notice have been sent.
- 21.5 A Notice sent or delivered in a manner provided by clause 21.2 must be treated as validly given to and received by the party to which it is addressed even if:
 - (a) the addressee has been liquidated or deregistered or is absent from the place at which the Notice is delivered or to which it is sent; or
 - (b) the notice is returned unclaimed.
- 21.6 Any Notice by a party may be given and may be signed by the solicitor for the party.
- 21.7 Any Notice to a party may be given to the solicitor for the party by any of the means listed in clause 21.2 to the solicitor's business address or facsimile number as the case may be.
- 22. **LIABILITY OF MEMBERS**
 - 22.1 The liability of each Member, whether actual, contingent or prospective, is limited to the unpaid Issue Price of his/her/its Units except if the Manager and the relevant Member agree otherwise in writing that the liability of a Member may be further limited or waived.
 - 22.2 A creditor or other person claiming against the Manager as trustee of the Scheme has no recourse against a Member and no Member is personally liable to indemnify the Manager, any creditor of the Manager or any person claiming against the Manager in respect of any actual, contingent, prospective or other liability of the Manager in relation to the Scheme.

23. **APPOINTMENT AND REMOVAL OF TRUSTEE**

23.1 Retirement or Resignation of Trustee

- (a) The Manager may retire upon giving 3 months' notice to the Members of its desire to do so.
- (b) The Manager must resign:
 - (i) if it is removed as provided by law;
 - (ii) if (being a corporation) it becomes an externally-administered body corporate as defined in the *Corporations Act 2001*; or
 - (iii) if (being a natural person) he or she is found to be of unsound mind or becomes bankrupt.

23.2 Unit Holders May Appoint New Trustee

The holders of not less than 50% of the Units on Issue may by notice in writing appoint a new Manager to fill a vacancy in the office of Manager.

23.3 Transfer of Records

Upon the resignation, retirement, or removal of the Manager, the Manager must hand to the new Trustee all books, records, documents and other matters pertaining to the Scheme and at the expense of the Scheme do all things necessary to transfer legal title and the assets of the Scheme to the new Trustee.

23.4 Deed of Adoption by New Trustee

The new Trustee appointed under clause 23.2 must execute a deed in a form approved by the holders of not less than 50% of the Units on Issue by which the new Trustee undertakes to the Members to carry out the obligations of the Trustee under this Deed.

24. **CHANGING THE CONSTITUTION**

24.1 This Constitution may be modified or repealed or replaced with a new Constitution by the Manager if the Manager reasonably considers the change will not adversely affect Members' rights or is deemed necessary to conduct the affairs of the Scheme.

24.2 The Manager must send a copy of the Scheme's Constitution to a Member of the Scheme within seven (7) days if the Member:

- (a) asks the Manager in writing for the copy; and
- (b) pays any fee (up to the prescribed amount) required by the Manager

25. ACCOUNTS AND REPORTS

- (a) The accounts of the Scheme must be kept and prepared by the Manager in accordance with applicable Accounting Standards and the Law.
- (b) The Manager must prepare and make available to Members the financial statements of the Scheme for each financial year.
- (c) The Manager may make the financial statements available to Members by either publishing the statements on the Manager's internet site, emailing the statements to individual Members or by sending the statements to individual Members by facsimile or prepaid post.

26. OTHER ACTIVITIES AND OBLIGATIONS OF THE MANAGER

26.1 Subject to the Law, nothing in this Constitution restricts the Manager (or its associates) from:

- (a) dealing with itself (as manager, trustee or responsible entity of another trust or scheme or in another capacity);
- (b) being interested in any contract or transaction with itself (as manager, trustee or responsible entity of another trust or managed investment scheme or in another capacity) or with any Member or retaining for its own benefit profits or benefits derived from any such contract or transaction; or
- (c) acting in the same or similar capacity in relation to any other trust or managed investment scheme.

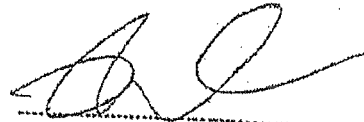
26.2 Other Obligations All obligations of the Manager which might otherwise be implied by Law are expressly excluded to the extent permitted by Law.

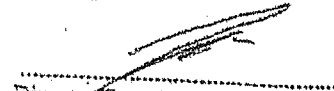
27. GOVERNING LAW

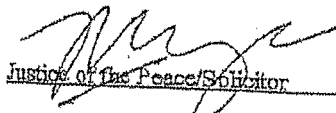
This Deed is governed by the Laws of the State of Queensland. The Manager and the Members submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

EXECUTED AS A DEED POLL:

GIVEN under the Common Seal of LM
INVESTMENT MANAGEMENT
LIMITED ACN 077 208 451 by
authority of a resolution of the Board of
Directors under the hands of a Director
and the Secretary who certify that they
are the proper officers to affix this seal


.....
Director


.....
Director/Secretary


.....
Justice of the Peace/Solicitor

Order Extract or Further searches

Select an extract and click **Purchase** to view the Extract On-line.

Name LM MANAGED PERFORMANCE FUND

ACN 103 036 433

ABN

Type NONC

Status Not Registered Organisations Of Type 'Nonc', 'Nret'

Principal Place of Business not available

Company Comprehensive Report - Manual (\$74.53)



LM FIRST MORTGAGE INCOME FUND 089 343 288**ASIC - Current & Historical Extract - LM FIRST MORTGAGE INCOME FUND ACN: 089 343 288**

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001.
Please advise ASIC of any error or omission which you may identify.

IDENTIFICATION

ARSN: 089 343 288

ABN: 13 089 343 288

Current Company Name: LM FIRST MORTGAGE INCOME FUND

Registered in:

Place of Registration:

Registration Date: 28/09/1999

Previous State Number:

Governance Type:

Review Date: 28/09/2014

CURRENT COMPANY DETAILS

Name: LM FIRST MORTGAGE INCOME FUND

Doc# 026 231 974

Period from: 06/05/2013

Name Start: 31/05/2007

Status: WINDING UP - MANAGED INVESTMENT SCHEMES

Type: MANAGED INVESTMENT SCHEME

Class:

Subclass:

FORMER COMPANY DETAILS

Name: LM FIRST MORTGAGE INCOME FUND

Doc# 019 979 888

Period from: 31/05/2007 to 05/05/2013

Name Start: 31/05/2007

Status: REGISTERED

Type: MANAGED INVESTMENT SCHEME

Class:

Subclass:

Name: LM MORTGAGE INCOME FUND

Doc# 014 793 385

Period from: 28/09/1999 to 30/05/2007

Name Start: 01/09/1999

Status: REGISTERED

Type: MANAGED INVESTMENT SCHEME

Class:

Subclass:

Name: LM MORTGAGE INCOME FUND

Doc# 014 793 385

Period from: Unknown to 27/09/1999

Name Start: 01/09/1999

Status: PENDING - SCHEMES

Type: MANAGED INVESTMENT SCHEME

Class:

Subclass:

COMPANY ADDRESS

No record

CURRENT COMPANY OFFICERS

Role: Responsible Entity
Name: LM INVESTMENT MANAGEMENT LIMITED
ACN: 077 208 461

Doc# 7E5105009

Address: FTI CONSULTING
'CORPORATE CENTRE ONE' LEVEL 9
2 CORPORATE COURT
BUNDALL QLD 4217

Appointment Date: 28/09/1999

Cease Date:

Role: Compliance Plan Auditor

Doc# 023 038 927

Name: REID, MICHAEL JAMES

Address: Address Unknown

Date of Birth:

Place of Birth:

Appointment Date: 24/07/2006

Cease Date:

Role: Scheme Auditor

Doc# 020 201 836

Name: ERNST & YOUNG

Number: 024 870 595

Address: LEVEL 5 WATERFRONT PLACE
1 EAGLE STREET
BRISBANE QLD 4000

Appointment Date: 04/03/2004

Cease Date:

Note: Appointment of secretary is optional. In the event no secretary is appointed the director(s) assume the responsibilities under the Law

FORMER COMPANY OFFICERS

Role: Compliance Plan Auditor

Doc# 020 201 988

Name: GLENNY, PAUL MARTIN

Address: Address Unknown

Date of Birth:

Place of Birth:

Appointment Date: 14/04/2004

Cease Date: 24/07/2006

Role: Compliance Plan Auditor

Doc# 014 793 385

Name: FRASER, IAN HARLEY

Address: 93 NINTH AVENUE
ST LUCIA QLD 4067

Date of Birth:

Place of Birth:

Appointment Date: 28/09/1999

Cease Date: 14/04/2004

Role: Scheme Auditor

Doc# 019 860 362

Name: KPMG

Number: 024 510 530

Address: LEVEL
11 CORPORATE CENTRE ONE CNR BUNDA AVENUE
BUNDALL QLD 4217

Appointment Date: 29/09/1999

Cease Date: 04/03/2004

FORMER SHARE CAPITAL

Class: 12M 12 MONTHS

Doc# 018 380 914 ((AR 2000))

Number of issued "Interests": 5,505,564

Amount Paid: \$5,505,564.00

Amount Due: \$0.00

Class: 3M 3 MONTHS	Doc# 018 380 914 ((AR 2000))
Number of Issued "Interests": 638,500	
Amount Paid: \$638,500.00	
Amount Due: \$0.00	
Class: 6M 6 MONTHS	Doc# 018 380 914 ((AR 2000))
Number of Issued "Interests": 768,500	
Amount Paid: \$768,500.00	
Amount Due: \$0.00	
Class: 2M 2 MONTHS	Doc# 018 380 948 ((AR 2002))
Number of Issued "Interests": 355,078	
Amount Paid: \$355,078.00	
Amount Due: \$0.00	
Class: 9M 9 MONTHS	Doc# 018 380 948 ((AR 2002))
Number of Issued "Interests": 1,676,211	
Amount Paid: \$1,676,211.00	
Amount Due: \$0.00	

INTEREST HOLDERS

No record

DOCUMENTS RELATING TO EXTERNAL ADMINISTRATION AND/OR APPOINTMENT OF CONTROLLER

Note: This extract may not list all documents relating to this status. State and Territory records should be searched.

No record

SATISFIED CHARGES

Note: On January 30, 2012 the Personal Property Securities Register (PPS Register) has commenced. The details of current charges will only be available from the PPS Register and the details of satisfied charges (as at 30th January 2012) can be obtained from ASIC. Further information can be obtained from www.ppsr.gov.au.

No record

ASIC DOCUMENTS (except charges)

Notes:

- A date or address shown as UNKNOWN has not been updated since the ASIC to over the records in 1991.
- Data from Documents with no Date Processed are not included in the Extract.
- Documents with "" pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
- Documents already listed under charges are not repeated here.

Form Type	Date Received	Date Processed	Effective Date	Pages	Doc No
5138	07/05/2013	29/05/2013	06/05/2013	2	026 231 974
Notification of Commencement or Completion of Scheme Windingup - Commencement of Winding Up					
7053	21/12/2012	21/12/2012	16/11/2012	5	028 183 433
Disclosure Notice					
5111	29/11/2012	07/01/2013	30/06/2012	5	028 382 967
Audit Report on Compliance Plan					
388	19/11/2012	05/12/2012	30/06/2012	53	028 335 516 ((FR 2012))
Financial Report Financial Report - Registered Scheme					
5101	26/10/2012	26/10/2012	26/10/2012	5	028 183 017
Constitution For Managed Investment Scheme Modification Of Constitution					
5101	16/05/2012	17/05/2012	16/05/2012	21	027 850 151
Constitution For Managed Investment Scheme Modification Of Constitution					
7051	15/03/2012	22/03/2012	31/12/2011	32	028 008 721
Half Yearly Reports					
388	19/09/2011	04/10/2011	30/06/2011	56	020 500 688 ((FR 2011))
Financial Report Financial Report - Registered Scheme					
5111	19/09/2011	04/10/2011	30/06/2011	4	027 613 174
Audit Report on Compliance Plan					
7051	28/06/2011	29/06/2011	31/12/2010	30	027 577 581
Half Yearly Reports					

5102	22/03/2011	23/03/2011	16/03/2011	78	020 500 652
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
5111	06/10/2010	16/11/2010	30/06/2010	5	027 106 724
	Audit Report on Compliance Plan				
388	06/10/2010	15/11/2010	30/06/2010	55	027 353 931 ((FR 2010))
	Financial Report Financial Report - Registered Scheme				
7053	10/09/2010	10/09/2010	30/06/2010	13	026 654 419
	Disclosure Notice				
7051	09/06/2010	16/06/2010	31/12/2009	26	026 593 607
	Half Yearly Reports				
5120	11/11/2009	12/11/2009	11/11/2009	7	020 500 491
	Notice of Exemption Re Managed Investment Scheme				
5120	11/11/2009	18/11/2009	11/11/2009	**	020 500 486
	Notice of Exemption Re Managed Investment Scheme				
491	26/10/2009	09/12/2009	29/09/2009	3	026 041 849
	Change to Scheme Details				
5111	30/09/2009	14/10/2009	30/06/2009	5	023 417 689
	Audit Report on Compliance Plan				
388	01/09/2009	05/10/2009	30/06/2009	52	026 048 018 ((FR 2009))
	Financial Report Financial Report - Registered Scheme				
7051	18/06/2009	22/06/2009	31/12/2008	25	024 949 181
	Half Yearly Reports				
5111	15/05/2009	29/05/2009	30/06/2008	5	025 637 392
	Audit Report on Compliance Plan				
5120	14/04/2009	08/05/2009	14/04/2009	5	024 672 203
	Notice of Exemption Re Managed Investment Scheme				
5122	14/04/2009	08/05/2009	14/04/2009	5	024 672 204
	Notice of Declaration Re Managed Investment Scheme				
5102	20/03/2009	24/03/2009	13/03/2009	2	024 506 845
	Compliance Plan For Managed Investment Scheme Modification Of Compliance Plan				
388	18/03/2009	31/03/2009	30/06/2008	52	025 519 022 ((FR 2008))
	Financial Report Financial Report - Registered Scheme				
5102	01/12/2008	02/12/2008	28/11/2008	77	024 506 463
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
491	06/11/2008	08/01/2009	02/10/2008	3	025 081 742
	Change to Scheme Details				
5101	11/04/2008	11/04/2008	11/04/2008	41	020 938 294
	Constitution For Managed Investment Scheme Replacement Constitution				
5102	10/04/2008	15/04/2008	10/04/2008	76	019 981 074
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
7051	14/03/2008	29/04/2008	31/12/2007	22	024 664 207
	Half Yearly Reports				
491	06/12/2007	17/01/2008	29/09/2007	14	024 401 787
	Change to Scheme Details				
5111	28/09/2007	11/10/2007	30/06/2007	4	024 230 093
	Audit Report on Compliance Plan				
388	25/09/2007	04/10/2007	30/06/2007	40	024 111 855 ((FR 2007))
	Financial Report Financial Report - Registered Scheme				
5102	01/06/2007	01/06/2007	31/05/2007	68	020 938 161
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
5101	31/05/2007	31/05/2007	31/05/2007	40	019 979 890
	Constitution For Managed Investment Scheme Replacement Constitution				
5140	31/05/2007	31/05/2007	31/05/2007	1	019 979 888

Notification of Proposed Change in Name of Scheme					
7051	16/03/2007	23/04/2007	31/12/2006	22	023 659 004
Half Yearly Reports					
5111	02/10/2006	11/10/2006	30/06/2006	3	023 164 842
Audit Report on Compliance Plan					
5114	11/09/2006	13/09/2006	11/09/2006	1	023 038 927
Notification of Request By Responsible Entity to Change Compliance Plan Auditor					
388	28/08/2006	29/08/2006	30/06/2006	42	023 134 667 ((FR 2006))
Financial Report Financial Report - Registered Scheme					
5101	07/07/2006	12/07/2006	07/07/2006	37	022 819 103
Constitution For Managed Investment Scheme Replacement Constitution					
5102	04/07/2006	05/07/2006	30/06/2006	68	020 500 396
Compliance Plan For Managed Investment Scheme Replacement Compliance Plan					
5102	31/05/2006	02/06/2006	22/05/2006	7	021 674 014
Compliance Plan For Managed Investment Scheme Modification Of Compliance Plan					
5102	28/04/2006	31/05/2006	21/04/2006	6	021 677 470
Compliance Plan For Managed Investment Scheme Modification Of Compliance Plan					
5101	24/04/2006	24/04/2006	24/04/2006	4	019 979 866
CONSTITUTION FOR MANAGED INVESTMENT SCHEME MODIFICATION OF CONSTITUTION					
7051	15/03/2006	28/03/2006	31/12/2005	21	022 837 009
HALF YEARLY REPORTS					
491	24/10/2005	14/11/2005	29/09/2005	6	022 372 274
CHANGE TO SCHEME DETAILS					
5111	26/09/2005	29/09/2005	30/06/2005	3	022 236 928
AUDIT REPORT ON COMPLIANCE PLAN					
388	14/09/2005	19/09/2005	30/06/2005	35	022 294 914 ((FR 2005))
FINANCIAL REPORT FINANCIAL REPORT - REGISTERED SCHEME					
5101	06/06/2005	07/06/2005	06/06/2005	37	020 945 596
CONSTITUTION FOR MANAGED INVESTMENT SCHEME REPLACEMENT CONSTITUTION					
5102	06/06/2005	20/06/2005	06/06/2005	64	020 945 597
COMPLIANCE PLAN FOR MANAGED INVESTMENT SCHEME REPLACEMENT COMPLIANCE PLAN					
7051	08/03/2005	09/03/2005	31/12/2004	15	020 886 294
HALF YEARLY REPORTS					
491	25/10/2004	29/10/2004	29/09/2004	5	019 304 539
CHANGE TO SCHEME DETAILS					
388	27/09/2004	01/10/2004	30/06/2004	26	020 695 850 ((FR 2004))
FINANCIAL REPORT FINANCIAL REPORT - REGISTERED SCHEME					
5111	27/09/2004	01/10/2004	30/06/2004	3	020 695 842
AUDIT REPORT ON COMPLIANCE PLAN					
5102	12/08/2004	16/08/2004	11/08/2004	53	017 914 997
COMPLIANCE PLAN FOR MANAGED INVESTMENT SCHEME REPLACEMENT COMPLIANCE PLAN					
5114	23/04/2004	14/05/2004	23/04/2004	5	020 201 988
NOTIFICATION OF REQUEST BY RESPONSIBLE ENTITY TO CHANGE COMPLIANCE PLAN AUDITOR					
7051	12/03/2004	18/03/2004	31/12/2003	14	020 078 574
HALF YEARLY REPORTS					
5137	10/03/2004	21/04/2004	04/03/2004	3	020 201 836
NOTIFICATION OF APPOINTMENT OF SCHEME AUDITOR					
5133	10/03/2004	21/04/2004	10/03/2004	1	020 201 823
NOTIFICATION OF RESIGNATION, REMOVAL OR CESSATION OF SCHEME AUDITOR - REMOVAL OF SCHEME AUDITOR					
5101	08/03/2004	15/03/2004	08/03/2004	36	019 199 829
CONSTITUTION FOR MANAGED INVESTMENT SCHEME MODIFICATION OF CONSTITUTION					
5102	08/03/2004	31/03/2004	28/02/2004	4	017 914 799
COMPLIANCE PLAN FOR MANAGED INVESTMENT SCHEME MODIFICATION OF COMPLIANCE PLAN					

5137	12/02/2004	25/02/2004	29/09/1999	2	019 860 362
	NOTIFICATION OF APPOINTMENT OF SCHEME AUDITOR				
491	12/01/2004	17/01/2004	28/09/2003	12	017 066 693
	CHANGE TO SCHEME DETAILS				
5102	28/10/2003	28/01/2004	28/10/2003	52	019 682 015
	COMPLIANCE PLAN FOR MANAGED INVESTMENT SCHEME REPLACEMENT COMPLIANCE PLAN				
388	15/09/2003	19/09/2003	30/06/2003	23	019 579 759 ((FR 2003))
	FINANCIAL REPORT FINANCIAL REPORT - REGISTERED SCHEME				
5111	15/09/2003	19/09/2003	30/06/2003	4	019 579 752
	AUDIT REPORT ON COMPLIANCE PLAN				
7160	15/09/2003	16/01/2004	30/06/2003	10	019 579 729 ((AR 2003))
	ANNUAL RETURN - MANAGED INVESTMENT SCHEME ANNUAL RETURN - MIS - BALANCE DETAILS				
7051	14/03/2003	18/03/2003	31/12/2002	14	019 059 904
	HALF YEARLY REPORTS				
5102	23/10/2002	14/11/2002	16/10/2002	2	017 914 180
	COMPLIANCE PLAN FOR MANAGED INVESTMENT SCHEME MODIFICATION OF COMPLIANCE PLAN				
7160	30/09/2002	04/12/2002	30/06/2002	7	018 380 948 ((AR 2002))
	ANNUAL RETURN - MANAGED INVESTMENT SCHEME ANNUAL RETURN - MIS - BALANCE DETAILS				
5111	30/09/2002	29/10/2002	30/06/2002	4	018 380 935
	AUDIT REPORT ON COMPLIANCE PLAN				
7160	30/09/2002	04/12/2002	30/06/2001	5	018 380 922 ((AR 2001))
	ANNUAL RETURN - MANAGED INVESTMENT SCHEME ANNUAL RETURN - MIS - BALANCE DETAILS				
7160	30/09/2002	06/05/2003	30/06/2000	5	018 380 914 ((AR 2000))
	ANNUAL RETURN - MANAGED INVESTMENT SCHEME ANNUAL RETURN - MIS - BALANCE DETAILS				
388	30/09/2002	28/10/2002	30/06/2002	23	016 667 196 ((FR 2002))
	FINANCIAL REPORT FINANCIAL REPORT - REGISTERED SCHEME				
5101	23/07/2002	23/07/2002	23/07/2002	3	017 925 494
	CONSTITUTION FOR MANAGED INVESTMENT SCHEME MODIFICATION OF CONSTITUTION				
766C	22/07/2002	23/07/2002	22/07/2002	1	018 187 077
	SUPPLEMENTARY DISCLOSURE DOCUMENT FOR MANAGED INVESTMENT SCHEME Alters 017 448 360				
7051	15/03/2002	20/03/2002	31/12/2001	11	017 993 424
	HALF YEARLY REPORTS				
388	01/11/2001	07/11/2001	30/06/2001	21	017 499 136 ((FR 2001))
	FINANCIAL REPORT FINANCIAL REPORT - REGISTERED SCHEME				
5111	31/10/2001	04/12/2001	30/06/2001	4	016 871 199
	AUDIT REPORT ON COMPLIANCE PLAN				
766C	17/09/2001	18/09/2001	17/09/2001	5	017 448 361
	SUPPLEMENTARY DISCLOSURE DOCUMENT FOR MANAGED INVESTMENT SCHEME Alters 014 877 507				
764H	17/09/2001	18/09/2001	25/09/2001	29	017 448 360
	SHORT FORM PROSPECTUS FOR MANAGED INVESTMENT SCHEME Altered by 018 187 077 Altered by 018 187 077 Altered by 018 187 077				
766C	17/09/2001	18/09/2001	17/09/2001	**	016 545 925
	SUPPLEMENTARY DISCLOSURE DOCUMENT FOR MANAGED INVESTMENT SCHEME Alters 014 877 507				
764H	17/09/2001	18/09/2001	25/09/2001	**	016 545 926
	SHORT FORM PROSPECTUS FOR MANAGED INVESTMENT SCHEME				
5102	13/06/2001	19/06/2001	13/06/2001	4	016 545 724
	COMPLIANCE PLAN FOR MANAGED INVESTMENT SCHEME MODIFICATION OF COMPLIANCE PLAN				
5101	13/06/2001	18/06/2001	13/06/2001	5	016 545 725
	CONSTITUTION FOR MANAGED INVESTMENT SCHEME MODIFICATION OF CONSTITUTION				
7051	14/03/2001	23/03/2001	31/12/2000	11	017 081 531
	HALF YEARLY REPORTS				
388	27/10/2000	15/11/2000	30/06/2000	20	011 691 382 ((FR 2000))
	FINANCIAL REPORT FINANCIAL REPORT - REGISTERED SCHEME				

754C	11/08/2000	11/08/2000	11/08/2000	24	014 793 868
REPLACEMENT PROSPECTUS FOR MANAGED INVESTMENT SCHEME Alters 016 454 351					
764H	30/05/2000	01/06/2000	07/06/2000	27	016 454 351
SHORT FORM PROSPECTUS FOR MANAGED INVESTMENT SCHEME Altered by 014 793 868 Altered by 014 793 868 Altered by 014 793 868 Altered by 014 793 868 Altered by 016 545 723					
5101	17/03/2000	21/03/2000	17/03/2000	3	016 110 608
CONSTITUTION FOR MANAGED INVESTMENT SCHEME MODIFICATION OF CONSTITUTION					
764	29/10/1999	04/11/1999	29/10/1999	20	015 883 237
COPY OF PROSPECTUS FOR MANAGED INVESTMENT SCHEME(S)					
5100	01/09/1999	28/09/1999	01/09/1999	2	014 793 385
APPLICATION FOR REGISTRATION OF MANAGED INVESTMENT SCHEME - NEW SCHEME					
5101	01/09/1999	28/09/1999	01/09/1999	34	014 793 387
CONSTITUTION FOR MANAGED INVESTMENT SCHEME INITIAL SCHEME CONSTITUTION					
5102	01/09/1999	28/09/1999	01/09/1999	11	014 793 388
COMPLIANCE PLAN FOR MANAGED INVESTMENT SCHEME INITIAL SCHEME COMPLIANCE PLAN					
5103	01/09/1999	28/09/1999	01/09/1999	1	014 793 386
DIRECTORS STATEMENT					

PRE-ASIC DOCUMENTS

No record

ANNUAL RETURNS

Year	Outstanding	Return Due Date	Extended Return Due Date	AGM Due Date	Extended AGM Due Date	AGM Held Date
2000	N	30/09/2000				
2001	N	30/09/2001				
2002	N	30/09/2002				
2003	N	30/09/2003				

FINANCIAL REPORTS

Outstanding	Balance Date	Report Due Date	AGM Due Date	Extended AGM Due Date	AGM Held Date	Doc No
N	30/06/2000	30/09/2000	Unknown	Unknown	Unknown	011 691 382
N	30/06/2001	30/09/2001	Unknown	Unknown	Unknown	017 499 136
N	30/06/2002	30/09/2002	Unknown	Unknown	Unknown	016 667 196
N	30/06/2003	30/09/2003	Unknown	Unknown	Unknown	019 579 759
N	30/06/2004	30/09/2004	Unknown	Unknown	Unknown	020 695 850
N	30/06/2005	30/09/2005	Unknown	Unknown	Unknown	022 294 914
N	30/06/2006	31/10/2006	Unknown	Unknown	Unknown	023 134 667
N	30/06/2007	30/09/2007	Unknown	Unknown	Unknown	024 111 855
N	30/06/2008	30/09/2008	Unknown	Unknown	Unknown	025 519 022
N	30/06/2009	30/09/2009	Unknown	Unknown	Unknown	026 048 018
N	30/06/2010	30/09/2010	Unknown	Unknown	Unknown	027 353 931
N	30/06/2011	30/09/2011	Unknown	Unknown	Unknown	020 500 688
N	30/06/2012	30/09/2012	Unknown	Unknown	Unknown	028 335 516

LM AUSTRALIAN INCOME FUND 133 497 917**ASIC - Current & Historical Extract - LM AUSTRALIAN INCOME FUND ACN: 133 497 917**

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001.
Please advise ASIC of any error or omission which you may identify.

IDENTIFICATION

ARSN: 133 497 917

ABN:

Current Company Name: LM AUSTRALIAN INCOME FUND

Registered in:

Place of Registration:

Registration Date: 14/10/2008

Previous State Number:

Governance Type:

Review Date: 14/10/2014

CURRENT COMPANY DETAILS

Name: LM AUSTRALIAN INCOME FUND

Doc# 028 183 237

Period from: 13/11/2012

Name Start: 13/11/2012

Status: REGISTERED

Type: MANAGED INVESTMENT SCHEME

Class:

Subclass:

FORMER COMPANY DETAILS

Name: LM AUSTRALIAN INCOME FUND - CURRENCY PROTECTED

Doc# 024 506 039

Period from: 14/10/2008 to 12/11/2012

Name Start: 30/09/2008

Status: REGISTERED

Type: MANAGED INVESTMENT SCHEME

Class:

Subclass:

Name: LM AUSTRALIAN INCOME FUND - CURRENCY PROTECTED

Doc# 024 506 039

Period from: Unknown to 13/10/2008

Name Start: 30/09/2008

Status: PENDING - SCHEMES

Type: MANAGED INVESTMENT SCHEME

Class:

Subclass:

COMPANY ADDRESS

No record

CURRENT COMPANY OFFICERS

Role: Responsible Entity

Doc# 7E5105009

Name: LM INVESTMENT MANAGEMENT LIMITED

ACN: 077 208 461

Address: FTI CONSULTING
'CORPORATE CENTRE ONE' LEVEL 9
2 CORPORATE COURT
BUNDALL QLD 4217

Appointment Date: 14/10/2008

Cease Date:

Role: Compliance Plan Auditor

Doc# 024 506 039

Name: MCLUSKIE, PAULA ANN

Address: Address Unknown

Date of Birth:

Place of Birth:

Appointment Date: 14/10/2008

Cease Date:

Note: Appointment of secretary is optional. In the event no secretary is appointed the director(s) assume the responsibilities under the Law

SHARE CAPITAL

No record

INTEREST HOLDERS

No record

DOCUMENTS RELATING TO EXTERNAL ADMINISTRATION AND/OR APPOINTMENT OF CONTROLLER

Note: This extract may not list all documents relating to this status. State and Territory records should be searched.

No record

SATISFIED CHARGES

Note: On January 30, 2012 the Personal Property Securities Register (PPS Register) has commenced. The details of current charges will only be available from the PPS Register and the details of satisfied charges (as at 30th January 2012) can be obtained from ASIC. Further information can be obtained from www.ppsr.gov.au.

No record

ASIC DOCUMENTS (except charges)

Notes:

- A date or address shown as UNKNOWN has not been updated since the ASIC to over the records in 1991.
- Data from Documents with no Date Processed are not included in the Extract.
- Documents with "" pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
- Documents already listed under charges are not repeated here.

Form Type	Date Received	Date Processed	Effective Date	Pages	Doc No
5140 Notification of Proposed Change in Name of Scheme	13/11/2012	13/11/2012	13/11/2012	2	028 183 237
5102 Compliance Plan For Managed Investment Scheme Replacement Compliance Plan	07/11/2012	08/11/2012	02/11/2012	77	028 183 208
5101 Constitution For Managed Investment Scheme Replacement Constitution	05/11/2012	05/11/2012	05/11/2012	48	028 183 153
388 Financial Report Financial Report - Registered Scheme	05/10/2012	09/11/2012	30/06/2012	44	028 208 421 ((FR 2012))
5111 Audit Report on Compliance Plan	05/10/2012	09/11/2012	30/06/2012	4	028 208 416
388 Financial Report Financial Report - Registered Scheme	07/10/2011	14/10/2011	30/06/2011	43	027 781 590 ((FR 2011))
5111 Audit Report on Compliance Plan	07/10/2011	24/11/2011	30/06/2011	5	027 911 269
5102 Compliance Plan For Managed Investment Scheme Replacement Compliance Plan	14/09/2011	14/09/2011	01/09/2011	78	026 213 751
5101 Constitution For Managed Investment Scheme Replacement Constitution	02/09/2011	06/09/2011	02/09/2011	47	027 711 312
5101 Constitution For Managed Investment Scheme Replacement Constitution	23/05/2011	23/05/2011	23/05/2011	43	026 213 232
5111 Audit Report on Compliance Plan	04/04/2011	14/07/2011	30/06/2010	4	022 990 501
388 Financial Report Financial Report - Registered Scheme	22/03/2011	23/03/2011	30/06/2010	45	027 199 630 ((FR 2010))
5111 Audit Report on Compliance Plan	03/03/2010	03/03/2010	30/06/2009	5	026 348 310

388	22/02/2010	26/02/2010	30/06/2009	39	026 145 249 ((FR 2009))
	Financial Report Financial Report - Registered Scheme				
5102	20/03/2009	24/03/2009	13/03/2009	2	024 506 844
	Compliance Plan For Managed Investment Scheme Modification Of Compliance Plan				
5102	01/12/2008	02/12/2008	28/11/2008	23	024 506 466
	Compliance Plan For Managed Investment Scheme Replacement Compliance Plan				
5100	30/09/2008	14/10/2008	30/09/2008	3	024 506 039
	Application For Registration of Managed Investment Scheme - New Scheme				
5101	30/09/2008	14/10/2008	30/09/2008	40	024 506 040
	Constitution For Managed Investment Scheme Initial Scheme Constitution				
5102	30/09/2008	14/10/2008	30/09/2008	28	024 506 041
	Compliance Plan For Managed Investment Scheme Initial Scheme Compliance Plan				
5103	30/09/2008	14/10/2008	30/09/2008	1	024 506 038
	Directors Statement				

PRE-ASIC DOCUMENTS

- No record

ANNUAL RETURNS

No record

FINANCIAL REPORTS

Outstanding	Balance Date	Report Due Date	AGM Due Date	Extended AGM Due Date	AGM Held Date	Doc No
N	30/06/2009	30/09/2009	Unknown	Unknown	Unknown	026 145 249
N	30/06/2010	30/09/2010	Unknown	Unknown	Unknown	027 199 630
N	30/06/2011	30/09/2011	Unknown	Unknown	Unknown	027 781 590
N	30/06/2012	30/09/2012	Unknown	Unknown	Unknown	028 208 421